RETURN

[246]

To an Order of the House of Commons, dated March 2, 1914, giving the following information, as far as may be available, respecting the constitution of Upper Chambers or Senates within the British Empire and in foreign countries, and especially such information in respect of the self-governing Dominions and of foreign countries possessing a federal system of government:—

1. As to the method of appointment, whether by executive authority or by election by the people, or otherwise.

2. As to the term of appointment, whether for life or for a term of years, or otherwise.

3. As to a reappointment or re-election, and generally as to the filling of vacancies occasioned by death or otherwise.

4. As to qualifications, whether by age, residence, possession of real or personal property or otherwise.

5. As to limitation of the membership, and as to the numerical relation of the membership to that of the Lower House.

6. As to provisions for dissolution, appeal to the electorate, conferences or additional appointments in case of disagreement between the Upper and Lower Houses.

7. As to the operation of the various systems in the several Dominions and countries mentioned, and in what respect defects or difficulties have made themselves manifest.

8. All other relevant information respecting the constitution and status and such Upper Chambers.

LOUIS CODERRE,
Secretary of State.

April 7, 1914.

4-5 GEORGE V., A. 1914

REPORTS FROM HIS MAJESTY'S REPRESENTATIVES ABROAD RESPECTING THE COMPOSITION AND FUNCTIONS OF THE SECOND OR UPPER CHAMBER IN FOREIGN STATES.

LIST OF PAPERS.

[1]Also to Berlin for information as to Prussia, and to Munich for Bavaria and Wurtemberg.

SESSIONAL PAPER No. 246

RETURN

To an Address of the Honourable the House of Commons, dated July 8, 1907, for "A Circular addressed to His Majesty's Representatives at Berne, Brussels, Christiania, Copenhagen, Lisbon, Madrid, Paris, Rome, Darmstadt, Dresden, Stockholm, The Hague, Vienna, and Washington, and their functions."

Circular addressed to His Majesty's Representatives at Berne, Brussels, Christiania, Copenhagen, Lisbon, Madrid, Paris, Rome, Darmstadt, Dresden Stockholm, The Hague, Vienna, and Washington.[1]

FOREIGN OFFICE, July 10, 1907.

SIR,—I have to request that you will furnish me with a report, in a form suitable for presentation to Parliament, on the composition and functions of the Second or Upper Chamber in the country to which you are accredited.

Your report should also contain a short account of any constitutional disputes which may have arisen during the last ten years between the Upper and Lower Houses, and of the means by which these have been adjusted.

I am, etc.,

E. GREY.

REPLIES TO PRECEDING CIRCULAR.

AUSTRIA.

No. 1

Sir E. Goschen to Sir Edward Grey.—(Received August 12.)

VIENNA, August 7, 1907.

SIR,—With reference to your Circular despatch of the 10th ultimo, I have the honour to transmit herewith a memorandum which has been drawn up by Mr. Crackanthorpe upon the composition and functions of the Upper House of the Austrian Reichsrath.

I have, etc.,

W. E. GOSCHEN.

Inclosure in No. 1.

MEMORANDUM BY MR. CRACKANTHORPE ON THE UPPER CHAMBER OR "HERRENHAUS" OF THE AUSTRIAN REICHSRATH.

Composition.

The Upper House of the Austrian Reichsrath consists of from 248 to 268 members, their number varying according to the number of life members.

It is composed of:—

1. The Princes of the Imperial family who are of age.
2. A number of nobles possessing large landed property, in whose families the dignity is hereditary.
3. Ten archbishops and seven bishops.
4. A number of life members nominated by the Emperor who have distinguished themselves in politics, art, or science, or rendered any signal service to Church or State. A law passed in January, 1907, lays down that the number of life members shall not be less than 150 or exceed 170.

[1] Also to Berlin for information as to Prussia, and to Munich for Bavaria and Würtemberg.

Functions.

Government Bills and motions can be introduced in the Upper House, with the exception of Money Bills and the Recruiting Bill, which must originate in the Lower House. Government Bills have precedence of all other Orders of the Day, with the exception of motions which are recognized by the House as urgent. Every member of the Upper House has the right to introduce private motions, which must be presented to the President in writing, and signed by ten members, including the mover. Motions duly seconded are placed among the Orders of the Day for a first reading. All Bills are subjected to three readings. When a Bill is down for its first reading, the mover may open the debate and explain its general principles. Government Bills are referred to a committee after the first reading. When the Bill is read for the second time, the general debate is opened by the reporter of the committee. This is followed by a special debate, in which the different clauses of the measure are considered and voted upon. Amendments may be referred to the committee, and the debate can be suspended until a report has been received upon them. After the Bill has passed the second reading, the third reading is usually taken at the next sitting. A vote is then taken on the whole Bill without debate. If passed, it is then sent to the Lower House, and, if it passes the Lower House without amendment, it is forwarded for the Imperial sanction. If amended, it returns to the Upper House, and, if the two Houses are unable to agree, a joint committee is formed.

At the sitting of the Upper House, held on the 24th July last, the President, Prince Windischgraetz, made an important announcement as to the result of the discussions which had recently taken place between the Prime Minister, Baron von Beck, and himself, with a view to increasing the field of usefulness of the Upper House. From his statement, and from the speech afterwards made by Baron von Beck, it appears that an arrangement has been come to whereby a greater proportion of legislative measures than formerly will henceforward be initiated in the Upper House. Among such Bills indicated for early introduction are Bills relating to the reform of the Penal Code, the revision of the Civil Code, the Sanitation Regulations, and Lunacy System. It has also been arranged that the sittings of the Upper House shall be held as far as possible consecutively, at stated periods, instead of, as formerly, at irregular intervals. It is thereby intended to facilitate the attendance of a greater proportion of peers who do not wish to reside permanently in Vienna. Efforts will also be made to send up Bills from the Lower to the Upper House in good time, so that the deliberations of the latter Assembly may not be unduly hurried. By these means it is hoped to draw additional advantages from the ripe experience and technical knowledge possessed by many members of the House of Peers, and to give greater scope to their activity in furthering the interests of the country.

Conflicts between two Houses.

Legislation in the Austrian Parliament has been impeded by continued conflicts between the various racial parties, and practically no friction had arisen between the two Houses prior to the passing of the Electoral Reform Bill at the beginning of this year. The attitude of the Upper House towards this Bill threatened at one time to produce a complete deadlock. The Bill in its final stage had been referred to the Electoral Reform Committee of the Upper House. The result of its deliberations was that it threatened to delay and indeed to practically wreck the Bill by recommending that two clauses should be added to it, one providing for "*plural voting,*" i.e., for the granting of two votes to every voter on his reaching the age of 35, and the other establishing the "*numerus clausus*" in the Upper House, i.e, providing that the number of life members should not be less than 150 nor more than 170. The object aimed at by the establishment of the "*numerus clausus*" was to prevent the Govern-

ment from allowing the number of life members of the Upper House to be reduced to a low point, and then creating a pliable majority through the appointment of a large number of new life peers, most of whom, as civil servants, would be subservient to the wishes of the Government. As the result, however, of pressure brought to bear by the Prime Minister on the leaders of the three parties in the Upper House, a compromise was arrived at whereby the plural voting clause was rejected in return for the assurance that the Lower Chamber should pass the measure known as the "*numerus clausus*," recommended by the Electoral Reform Committee. Thus the subsequent passing of the Bill in the Upper House was practically assured, in spite of the continued opposition of certain peers connected with the German Constitutional party.

It may be here mentioned that an interesting feature of the Universal Suffrage law is the creation of an option for members of the Herrenhaus to seek election to the Lower Chamber, their functions in the Upper House being, in case of election, temporarily suspended for the whole duration of their mandates as deputies. Under the system in force, membership of the Upper House is automatically revived on resignation of his seat in the lower Chamber by a life member. A provision of the Electoral Reform law, however, precludes the possibility of any member of the Upper House, who may have obtained a seat in the Lower Chamber, recording his vote in the Upper Chamber upon any measure on which he may already have voted in the Lower House.

Control over Public Finances.

Money Bills must, as has already been seen, originate in the Lower House, and the estimates must receive the assent of the Upper House. Beyond this consitutional division of functions, the control of the two Houses of the Austrian Reichsrath over public finances may be said to be absolutely equal. Clause (*c*) of article ii of the constitution lays down the following as among the attributes of the Reichsrath as a whole, i.e., of both Herren- and Abgeordnetenhaus:—

"The fixing of the Budgetary Estimates, and, in particular, the annual authorization of the collection of taxes, duties, and revenues; the examination and adoption of the closed returns of the State, and of the results of the financial year; the issue of new loans, conversion of existing public debts, the sale, transformation, or mortgaging of State property (real estate); legislation concerning monopolies and State enterprises ("régies"), and, in general, concerning all financial matters which are common to the kingdoms and lands represented in the Reichsrath."

In order to appreciate correctly the degree of control exercised by the Upper House, in conjunction with the Lower, over public finances, it is necessary to give a brief account of the important part played in recent years by paragraph 14 of the constitution in connection with parliamentary obstruction. Paragraph 14 lays down that when there is urgent need of some legislative measure being passed at a time when Parliament is not sitting, such measure may be enacted by way of Imperial Decree, so long as it does not involve a change in the constitution, impose a permanent charge on the State revenues, or alienate State property.

The original object aimed at, when paragraph 14 was framed, was to meet cases of sudden emergency, and it was not at the time contemplated that it would be mainly employed in order to overcome the systematic obstruction of racial parties. Its employment for this object was the consequence of Count Badeni's Language Ordinance of 1897, placing Czech and German on an equal footing throughout Bohemia. With the object of securing the withdrawal of this ordinance, obstructionist methods were adopted by the Germans, and it became impossible to pass the annual Budget. Count Badeni fell, his Language Ordinance was withdrawn, with the only result that German was converted into Czech obstruction. From this date, until Dr. von Koerber's accession to office in 1900, it became necessary to apply paragraph 14 in

order to meet the financial needs of the country. Dr. Von Koerber succeeded in obtaining the assent of Parliament to his first Budget by means of promises of large public works in various parts of the country, the expenditure of as much as 80,000,000l. being contemplated for this purpose. In 1902, however, Czech obstruction, taking the form of a constant flow of urgency motions, again impeded the passing of the annual Budget, and both in 1903 and 1904 recourse was had to paragraph 14.

This period of obstruction was closed, and the fall of Dr. von Koerber occasioned, by the necessity of issuing a loan for military purposes. The Austrian banks were, however, unwilling to advance money upon the security of article 14, even upon advantageous terms, on the ground that paragraph 14, while expressly contemplating emergencies, lays down that no permanent charge is thereby to be made on the public revenues. Thus while the paragraph would cover the contraction of a temporary floating debt, it can provide no sanction for any addition to the permanent indebtedness of the State, and is the less valid as security in that decrees promulgated under paragraph 14 are liable to subsequent revocation by either House of Parliament.

It results from the foregoing that, under stress of unforeseen contingencies during the era of racial obstruction in Parliament, paragraph 14 of the Austrian constitution received an interpretation such as practically to deprive the two Chambers of the Reichsrath of their control of the Budget; and that in Austria this interpretation may prevail for an indefinite period, provided no permanent loan has to be issued, no old loan to be converted, and no State property to be sold. When these latter contingencies become imperative the Government has to choose between the alternatives of resignation, compliance with the demands of the obstructive elements in Parliament (a matter often difficult since, as in the years 1897-1900, compliance with the demands of one racial group may engender fresh obstruction on the part of a hostile group), or of recommending the Crown to suspend *motu proprio* the constitution, and modify it in such a manner as to meet the peculiar exigencies of Austrian parliamentary life.

DAYRELL CRACKANTHORPE.

August 6, 1907

BAVARIA AND WURTEMBURG.

No. 2.

Mr. Cartwright to Sir Edward Grey.—(Received September 2.)

MUNICH, August 30, 1907.

SIR,—With reference to your Circular of the 10th ultimo, I have the honour to inclose herein short reports on the constitution and powers of the Upper Chambers of the kingdoms of Bavaria and Wiirtemburg.

I have, etc.,

FAIRFAX L. CARTWRIGHT.

Inclosure in No. 2.

REPORT ON THE BAVARIAN PARLIAMENT.

Constitution of the Upper Chamber.

The Bavarian Parliament, created in 1818, and then called "Ständeversammlung," was reorganized in 1848, after the revolutionary movement of that year, and since then it has been called the "Landtag." This "Landtag" consist of two Chambers, the Upper Chamber ("Kammer der Reichsräte") and the Lower Chamber ("Kammer der Abgeordneten.")

The Upper Chamber is composed of:—

1. The Royal Princes who are of age.
2. The Princes of Ottingen-Ottingen and Thurn and Taxis, as holders of hereditary Offices of State.
3. The two Bavarian Archbishops.
4. The representatives of certain great noble families who still possess within the kingdom certain manorial estates. If they lose these they lose their seat in the Chamber. At present they number forty-six.
5. A Bavarian Bishop nominated by the King.
6. The President of the Protestant Upper Consistory.
7. Persons called to a seat in the Upper Chamber by the Crown. This honour may be either hereditary or conferred only for life. At present there are seventeen of such Members.

In 1907 the Bavarian Upper Chamber consisted of eighty members.

The Royal Princes are allowed to vote at the age of 21, other hereditary members of the Chamber at the age of 25.

The number of hereditary members which the Crown can create is unlimited, but the number of life members is limited to one-third of the total number of members of the Upper Chamber, excluding the Royal Princes and the Princes of Ottingen-Ottingen and Thurn and Taxis.

Persons who aspire to be called to the Upper Chamber for life must either have rendered great services to the State, or they must be of noble birth or be persons of great private means.

Persons who aspire to enter the ranks of the nobility who possess hereditary seats in the Upper Chamber must have held Bavarian nationality for six years, or belong to the Bavarian nobility and have acquired entailed estates ("Fideicommiss").

The President of the Upper Chamber is named by the King for the period of one session.

The Chamber is divided into seven Standing Committees, to which all Bills are referred for a report. One of these committees deals with financial questions.

Constitution of the Lower Chamber.

The Bavarian Lower Chamber is composed of 163 members, that is, one deputy for about 38,000 of the population. Candidates must be Germans possessed of Bavarian nationality for at least one year, and be 25 years of age.

The Lower Chamber is divided into five Standing Committees to report on Bills.

Finances.

The Government introduce the Budget into the Lower Chamber, and it lasts for a period of two years. It becomes law when it has been sanctioned by the two Chambers. If disputes arise with regard to certain points between the two Chambers, the disputed matter is sent backwards and forwards till finally settled. No increase in the national debt can be made without the approval of the two Chambers.

Disputes between the two Chambers.

In 1902 a slight friction arose between the two Chambers. The President of the Lower Chamber, Dr. von Orterer, took public exception to the language used by Count Törring, member of the Upper Chamber, who had asserted in a speech that the Lower Chamber was wasting its time in idle discussions and not getting on with its work. President von Orterer declared that language of this kind was intended to discredit the Lower Chamber, and would lead to friction between the two Chambers.

At the time of the introduction of the new Bavarian Electoral Reform Bill (1904), a good deal of friction arose between the represntatives of the various poli-

tical parties, and Count Lerchenfeld, President of the Upper Chamber, advised that members of the two Chambers should avoid, as far as possible, criticizing the proceedings of the other Chamber. The Prime Minister, Baron von Podewils, expressed his regret at the attacks made by one Chamber upon the other, as they contributed to disturb the harmonious working of the two Chambers, a harmony which was so necessary if they were to accomplish good work.

The dispute over the amendments made by the Upper Chamber in the proposed electoral law led to considerable friction with the Lower Chamber, and, finally, to adjust matters, the Presidents of the two Chambers met, and, after conferences restored harmony, and the Bill in its present form was finally passed.

Report on the Wurtemburg Parliament.

Composition of the Chambers.

The law altering the constitution of Würtemburg passed both Chambers on the 16th July, 1906, and became effective on the 1st December of that year.

The reasons why a new law altering the constitution had become necessary was owing to the fact that the number of hereditary members of the Upper Chamber had been gradually diminishing in consequence of the extinction of noble families possessing hereditary rights. The Upper Chamber required strengthening in numbers, and a law for that purpose was, after much discussion, eventually passed.

At present the Upper Chamber consists of:—

1. The Princes of the Royal House who are of age.
2. The nineteen heads of certain great noble houses who are in possession of landed estates within the kingdom enjoying feudal rights.
3 Six life members appointed by the King.
4 Eight representatives of the lower nobility.
5. Six ecclesiastical representatives—two Catholic and four Protestant.
6. Two representatives of the universities.
7. Five representatives of industrial interests—two chosen by traders, two by agriculturists, and one by the artisan ("Gewerbe") class.

The Wurtemburg Upper Chamber at present consists of fifty members.

The Upper Chamber is limited in numbers, except as regards the Princes of the Royal House. In the event of the extinction of any of the great hereditary noble families, the King can in their place appoint a life member to the Upper Chamber

Constitution of the Lower Chamber.

The lower Chamber consists of:—

1. Sixty-three deputies from provincial districts.
2. Six deputies from six other towns.
4. Nine deputies from the Nekar and Jagst districts.
5. Eight deputies from the Black Forest district and that of the Danube.
6. One deputy from the University of Tübingen.

The Lower Chamber consists of ninety-three members.

Finances.

All Bills have to be agreed to by both Chambers before they can become law.

The Budget is introduced into the Lower Chamber, and when voted in its entirety it is sent to the Upper Chamber, which has the power either of rejecting it or of mak-

ing amendments. The Budget then returns to the Lower Chamber, which discusses it anew, and the decision it comes to with regard to details is final. The Upper Chamber then has only the power of rejecting the Budget in its entirety. In the event of its becoming impossible for the two Chambers to agree as to the Budget, the votes cast in both Chambers for or against it are added together, and the resulting majority decides the issue. Should the votes be equal, the President of the Lower Chamber has the casting vote.

Disputes between the two Chambers.

In the year 1904 an Elementary School Bill was introduced, clause 4 of which gave the control of the schools to the teaching board and taking it away from ecclesiastical control. The Bill was passed by the Lower Chamber by a substantial majority, but met with much opposition in the Upper Chamber, which eventually rejected clause 4.

This gave rise to a storm of indignation against the Upper Chamber throughout the country, and on the 16th June the Lower Chamber passed a resolution by 62 to 17 calling upon the Government to introduce a Bill for altering the constitution of 1810. Meetings were held throughout the kingdom threatening the Upper Chamber with extinction. In the autumn of 1904 the Speech from the Throne promised the introduction of a Bill revising the constitution of the Upper Chamber, and on the 15th June, 1905, it was laid before the Lower Chamber, and, after long debates, it was approved by the Upper Chamber, and became law on the 16th July, 1906.

By the alteration introduced into the constitution of the Upper Chamber its influence in the country has been increased.

BELGIUM.

No. 3

Sir A. Hardinge to Sir Edward Grey.—(Received September 16.)

BRUSSELS, September 12, 1907.

SIR,—I have the honour to transmit herewith, as desired in your Circular despatch of the 10th July last, a report by Mr. Wyndham, First Secretary of this Legation, on the Senate or Second Chamber of the Kingdom of Belgium.

I have, etc.,

ARTHUR H. HARDINGE.

Inclosure in No. 3.

REPORT BY MR. WYNDHAM ON THE SENATE OR SECOND CHAMBER OF THE KINGDOM OF BELGIUM.

Constitution of 1831.

When Belgium separated from Holland, and when the constitution of 1831, which, with certain modifications, still remains in force to-day, was framed, there was considerable hesitation as to the nature and position of the Second Chamber. The doubts which existed in the minds of those who drew up the constitution can be traced in the altered draft of particular clauses and in the slightly anomalous position, which will afterwards be touched upon, finally given to the Second Chamber. Some members of the Constituent Assembly were in favour of only one single Chamber, while others wished that there should be a Second Chamber with members appointed by the King.

As is usually the case in Belgian history, a compromise was effected, and a middle course was steered between these extreme views. The Parliament as finally established, consisted of two elective Chambers. This solution was all the more natural since the French rule under the Revolution and the Empire had so completely swept away the ancient orders or estates of the realm that a revival of the old representative Assemblies based upon them was impossible, whilst the traditional Belgian jealousy of the authority of the Crown, intensified by the recent experience of Dutch rule, militated against the creation of a House of Peers as that of the French Restoration or even of the July Monarchy.

Two Elective Chambers.

The two Chambers being elective, it will be necessary to consider briefly the condition under which they were originally chosen and to examine the more important modifications which have regulated the franchise since the constitution was originally established.

The franchise under which the House of Representatives was elected was for eighteen years a very restricted one, and the electorate consisted of about 45,000 electors out of a population of 4,000,000. The constituencies were, and still remain, the "arrondissements" or administrative subdivisions of the nine provinces into which Belgium is divided. These "arrondissements" may for electoral purposes be redistributed, and at present out of the thirty-one electoral divisions six are formed by the union of two, and two by that of three "arrondissements." There is no distinction between urban and rural constituencies, but the number of members is based on population in the ratio of one member to every 40,000 electors, whether possessing one or several votes. It follows that some electoral divisions return many more members than others; thus the Brussels division returns twenty-one, the Antwerp division fourteen, and the Liége division twelve, while the thinly-populated Luxembourg division of Neufchateau-Viron is only represented by two. There is a decennial redistribution of seats, new ones having to be created to meet the increase of population shown by each decennial census. The same constituencies elected the Senate, but as every senator required, under the Electoral law of 1831, to pay taxes equal to 1,000 florins a year, the choice of the electorate was confined to the wealthy classes. It has been calculated that before the reforms of 1892 and 1893 less than 500 persons for the whole of Belgium were actually eligible for the Senate.

Electoral Reform.

Under the new Electoral law, passed in April, 1893, which, although its effects were subsequently modified by proportional representation, still remains in force, the vote was given after a year's residence to every citizen 25 years old, and not disqualified either permanently or temporarily by conviction of crime or the receipt of public charity. Every citizen over 35 years of age, and married or a widower with legitimate issue, paying at least 5 fr. a year in house tax, or owning real property worth 80l., or having derived for two years previously 4l. a year from Begian funds, became entitled to a supplementary vote. Two supplementary votes were bestowed on electors who had received a diploma of higher or secondary education, or who filled, or had previously filled, any appointment implying a superior education. No person could have more than three votes, or vote in more than one constituency, and the exercise of the franchise was rendered obligatory under penalty of a fine.

Proportional Representation.

Succeeding elections conducted under this law made it more and more evident that its effect, given the growth of Socialism and the rise of a third party in addition

to the Catholic and Liberal parties which had hitherto practically occupied the whole of the political area, was to make Parliament a very inaccurate reflection of the national opinion or of the real relative strength of opposing views, and many moderate men became convinced that the maintenance of the electoral system established in 1893 might be fraught with grave dangers to the future working of parliamentary institutions. Of these dangers the most serious was the prospect of the eventual disappearance of the old Liberal party, which was being crushed out of parliamentary existence between the Clerical and the Socialist organizations. To remedy these dangers the systems of proportional representation was introduced and finally carried, after various vicissitudes, in 1899. Inasmuch as the mode of election to the Chambers is not explicitly laid down by the articles in the constitution which deal with the qualifications of electors, the measure did not, like the introduction of universal suffrage and of plural voting, require the two-thirds majority in both Houses necessary for carrying a change in the constitution and it can therefore be repealed or modified without them. Sir Arthur Hardinge has fully reported upon the system and the political results of proportional representation in his despatch of the 28th June, 1906, which was published in the same year as a parliamentary paper, and it is thus hardly necessary to enter into details upon the subject.

Present Constitution of the Senate.

The Senate as at present constituted consists of 110 members, elected for eight years, one half of these members being subject to re-election every four years, instead of every two, as is the case with the members of the Lower House. Of these members eighty-three are chosen by direct elections by the votes of the same electors as elect the House of Representatives, with this single difference, that electors for the Senate must be 30 instead of 25 years of age. The same system of representation according to population holds good with regard to the Senate as with the Lower House, but in the case of the Senate, every 80,000 persons are represented by one senator, whereas in the Chamber a Deputy represents 40,000 electors. According to the electoral lists of 1901-2 there were 701,603 persons qualified to vote for the Senate having one vote, 317,669 persons with two votes, and 236,627 with three votes, a total of 1,255,899 electors with 2,046,822 votes. The remaining twenty-seven senators are elected by the County Councils ("Conseils Provinciaux") which are themselves elected by all citizens qualified to vote directly for the Senate, the electoral division in the case of these Councils being, however, not the "arrondissement," but a division of it called the "canton," and standing in the same relation to the "arrondissement" as the latter does to the province. The electoral divisions returning senators by direct election are, as has been already shown, the same as those returning members for the House of representatives; but two or three such divisions are more frequently fused into one for the purposes of senatorial elections, the number of electors being a good deal smaller on account of the difference of the age limit. The Senate is thus the product of almost universal suffrage tempered by the plural vote, and, in the case of twenty-seven of its members, to whom the system of proportional representation is not applied, by the substitution of indirect for direct election. Its otherwise democratic character is qualified by the provision in the Constitution of 1831, which the Reform Acts have preserved in an altered form, and which obliges every candidate for the Senate, besides being at least 40 years of age, to be the owner or occupier of real estate valued at 12,000 fr. (£480) a year, or to pay 1,200 fr. (£48) a year in direct taxes. The Senators directly elected by the democracy must, therefore, be middle-aged men, with a substantial stake in the country. Those elected by the Provincial Councils are not required to possess this property qualification, and this circumstance, joined to the fact that these local bodies are occasionally very radical in complexion, accounts for the presence among the provincial senators of several ultra-democratic politicians.

Its general character.

The Senate as at present constituted, and excluding the Heir Apparent to the Throne, who, by an exception in the constitution, has an *ex officio* seat in it, but is not of course identified with any political party, contains sixty Catholic members, forty-two Liberals, one Independent, and seven Socialists. It is not easy to classify with accuracy the professions or occupations of the various members, as the divisions would necessitate a large number of cross classifications. There is but one ecclesiastic, some forty-three members are lawyers and persons representing Liberal professions, and about the same number are drawn from the business and commercial classes, from bankers, owners of or partners in large industrial works, and merchants. There is a considerable sprinkling of the representatives of the aristocratic families, more so than in the Lower House, where the large majority consists of lawyers, while the landed interests are represented by all the categories above mentioned. On the whole, the Senate represents not so much the aristocracy as the business classes of the country. The position of senator hardly appeals to a young and ambitious man; there is not within the walls of the Senate the same scope as in the Lower House or in the law courts, nor does its membership carry with it the same prestige as that of belonging to an hereditary House. But the position of senator is one of dignity, and, compared with the duties of membership of the Lower House of comparative ease. Both Houses being elective, there is no social or class distinction between the two, and a senator will occasionally, on leaving the Upper House, seek election in the Lower. The property qualification insures that the members of the Senate should be drawn from classes of a certain financial position—or, at all events, in easy circumstances—while the age qualifications of the electors and of the candidates, together with the system of the plural vote and proportional representation, insure the existence of a stable and conservative element, counterbalancing the elective character of the Senate and the low franchise under which it is chosen. These qualifications have so far kept from the Second Chamber any Socialist or Labour element sufficient to affect its general character; its debates are usually conducted with greater calm than those of the Lower House, and, if anything, attain a higher order of merit. No popular feeling exists in the country against the Senate, and no party, not excluding the Socialists, are in favour of entirely doing away with a Second Chamber, though the more extreme members of the Left advocate the abolition of the property qualification and the plural vote.

Limitations to Powers of Senate.—Money Bills.

As has been pointed out at the beginning of this report, there existed considerable doubt in the minds of the framers of the constitution as to the position of the Second Chamber. In the original draft article xxvii ran as follows:—

> "L'initiative appartient aux trois branches du pouvoir législatif. Néanmoins toute loi relative aux recettes on aux dépenses de l'Etat ou au contingent de l'armée doit d'abord être votée par la Chambre élective."

This limitation was evidently inserted in imitation of the privileges enjoyed by the House of Commons under the British constitution, and though it was ultimately decided that the two Chambers should be elective the limitation was preserved. In the constitution, as finally adopted, Article xxvii, after declaring that the right of initiating legislation belongs to each of the three branches of the legislative power, states that "néanmoins toute loi relative aux recettes et aux dépenses de l'Etat ou au contingent de l'armée doit d'abord être votée par la Chambre des Représentants." Thus the original clause, though altered in wording, remained substantially the same. It was apparently adopted without discussion, and continues an anomaly in a constitution where both Chambers are elective. In 1902 the Senate proposed to repeal this clause, but the suggestion was thrown out in the Chamber.

Disputes between the two Chambers.

As was inevitable, various questions have from time to time arisen between the two Chambers as to the interpretation of Article xxvii, but the disputes have never assumed the proportions of a serious struggle, and have either been allowed to drop or have ended in an amicable compromise. Thus, in 1834, the Senate proposed to create a Council of State, and the question arose as to the payment of the councillors. It was decided that the Senate was not deprived of the right of voting expenditure, but that it could not make any definite stipulation as how the funds should be provided. Again, in 1841 a motion was introduced in the Senate making definite provision for additional expenditure on the improvement of country roads. A point of order was raised and the motion was withdrawn, and another motion couched in more general terms substituted, to the effect that the additional expense should be borne partly by the State and partly by the various communes. In 1845 the question of increasing duties on agricultural produce was raised in the Senate, but it was particularly pointed out that this increase was not for revenue but purely for protection. On the Bill being sent down to the Chamber of Representatives a fresh Bill was substituted, and the new Bill, after be'ng passed in the Chamber, was accepted by the Senate.

The most serious question that has arisen regarding Money Bills was in 1869, when the Senate threw out by a catch vote the Budget of the Ministry of Justice, and returned it without discussion to the Chamber of Representatives. A vigorous protest was made by the Prime Minister, M. Frère-Orban who was also Minister of Finance, and the Budget was voted again by the House of Representatives by a majority of 62 to 42. The incident was not, however, so much a constitutional difference between the two Houses as a vote of confidence in the Government, and especially in the Minister of Justice, M. Bara. The question did not assume an acute form as between the two Chambers, and dropped with the fall of the Liberal Ministry in the following summer.

Spirit of Compromise.

From the above examples it will be seen that neither House has in the course of Belgian history ever attempted to push its claims to extremes, and the temporary disputes have been settled by compromise and the exercise of common sense. Any permanent estrangement would, moreover, be rendered impossible through the constant renewal of the Chambers by the electorate, one-half of the Senate being subject to re-election every four years, and the whole body in the event of a parliamentary dissolution.

The general opinion of constitutional writers, so far as I can gather, is to the effect that, the restriction with regard to the initiation of Money Bills being an anomaly, its interpretation should be liberal, and that the Senate not only has the right to accept or reject a Money Bill, but also to amend it.

Gradual Diminution of Control of the Senate over the Budgets.

As a matter of fact, the control of the House of Representatives over the Budget has become practically greater than was contemplated under the theory of the constitution. Of recent years, and especially since the introduction of universal suffrage, the debates on the various Budgets—and it should be remarked that the ordinary Budget in Belgium is made up of fifteen distinct Bills—have been extended to an inordinate length, and the Budgets have been only sent up to the Senate towards the close of the parliamentary session. The time necessary for the full discussion of these various Bills has been thus of necessity curtailed, and the Senate

has by the force of circumstances been obliged to restrict its right of amendment, and even to limit its duty of criticism and control. This condition, the result of the prolonged debates in the Lower House, has been the cause of frequent, though hitherto of ineffectual protest.

General Spirit of Harmony between the two Chambers.—Possibility of approaching Conflict.

The right of the Senate to amend or reject measures other than Money Bills has never been called in question, but as both Chambers are elected by similar constituencies, their political complexion and the balance of parties within them are so similar that its exercise has been infrequent. It must further be remarked that the Catholic or Conservative party has for twenty-three years had a majority in both Houses of Parliament, and that its legislation has rarely been of a character to provoke a conflict between the popular and revising Chambers. It appears, however, likely that the Mining Bill, which was carried last spring by a coalition between the Extreme Left and the Young or Democratic Catholics, and which brought about the fall of the De Smet de Naeyer Cabinet, will be amended if not rejected in the Senate, and that though the Government and the majority of the House of Representatives will acquiesce in the decision of the Second Chamber, or accept some compromise on the subject, the Labour party will violently denounce it, and demand, not indeed its abolition, but its reform on more democratic lines.

PERCY C. WYNDHAM.

September 12, 1907.

DENMARK.

No. 4.

Sir A. Johnstone to Sir Edward Grey.—(Received October 21.)

COPENHAGEN, October 17, 1907.

SIR,—In accordance with the instructions contained in your Circular despatch of the 10th July last, I have the honour to transmit a report by Mr. Vaughan on the composition and functions of the Danish Upper House, as well as an account of the disputes which have arisen of late years between the two Houses and the means by which these have been adjusted.

The efforts of the party of reform are more directed towards obtaining an Upper Chamber of increased Liberal tendency than towards curtailing its powers; and none but a few Extremists have shown any wish to do away with the double Chamber system, which all the leading men in this country appear to consider the wisest form of parliamentary Government.

I have, etc.,

ALAN JOHNSTONE.

Inclosure in No. 4.

REPORT BY MR. VAUGHAN ON THE DANISH "LANDSTING," OR UPPER HOUSE.

The Danish Rigsdag, or Parliament, is composed of two Chambers: the Lower House, known as the Folketing, and the Upper House, known as the Landsting.

The Landsting is invariably composed of sixty-six members, of whom twelve are

nominated by the King for life and the remaining fifty-four are elected for eight years, seven representing the town of Copenhagen, forty-five the other districts, town and county, and one each the islands of Bornholm and the Faröes. Half of the number of elected members retire by rotation every four years. A member of the Landsting may only be elected for a constituency in which he resides, whereas a member of the Folketing may be elected for any constituency.

The preliminary process of election, which in its final stage is conducted in accordance with the rules for proportional representation, is somewhat complicated.

By section 49 of Law No. 16 of the 7th February, 1901, the Danish representative area is divided into twelve electoral circles, each with a specially determined number of representatives.

These electoral circles, or districts, are subdivided into "parishes," whose smaller individuality is retained for certain purposes, while for others it is merged in the larger division of the "circle."

In each circle there are two classes of electors:—

> Firstly, those who are direct electors and themselves vote for the candidate; and
>
> Secondly, those who are chosen as deputy electors by a majority vote of such persons as enjoy the franchise for elections to the Folketing.

But this does not apply in the case of Copenhagen, where the system of election differs from that in the rest of the country, the final elections in that city being made entirely by deputy electors, who are chosen as follows:—

All those who enjoy the franchise for elections to the Folketing vote also for a certain number of these deputy electors. Voters who are taxed on a yearly income of 4,000 kroner (£222 4s. 6d.) also choose an equal number of them, and the deputy electors in turn choose seven members for the Landsting.

In places other than Copenhagen the final elections are made by electors, half of whom are deputy electors having been chosen by a majority vote of those who enjoy the franchise for elections to the Folketing, and the other half of whom are direct electors in virtue of their being the most highly assessed taxpayers in the respective circles.

The former half are chosen, one for each parish, but in the case of the latter half (or direct voter in virtue of assessment) the parishes in the respective circles are "pooled" as it were, and the circle as a whole furnishes such a number of direct voters as corresponds to the number of parishes in that circle, these voters being the most highly assessed taxpayers in the circle as a whole, irrespective of the parishes, except in so far that their numbers correspond, as already explained.

The "commercial towns" in a circle, and also the towns of Frederiksberg and Marstal, furnish half the number of final electors corresponding to the number of parishes in the circle, these final electors consisting of the two classes above mentioned (half direct and half deputy), the assessment qualification in these cases, however, is based on a yearly income of 2,000 kroner (£111 2s. 3d.), or an annual payment to the State in direct taxation of 150 kroner (£8 6s. 8d.)

The Landsting enjoys exactly the same privileges in regard to legislation, including finance, as the Folketing, although the latter exercises a predominant influence on the Budget in virtue of section 48 of the constitution, which enacts that this must be first dealt with by the Lower House. As the Budget, which is presented in October, must be passed by both Chambers before the end of the financial year on the 31st March, if most of the time available for its discussion is monopolized by the Folketing, the Landsting, although in theory equally entitled to discuss details, is in practice precluded from doing so owing to lack of opportunity.

In case of either Chamber not accepting the amendments of the other to any measure, provision is made by section 53 of the constitution for the appointment of a

Joint Committee, consisting of an equal number of members from each Ting, who are to meet together with a view to effecting an agreement.

The section reads as follows:—

(Translation.)

Section 53. "When a Bill has been passed in one Ting it must, in the form in which it has been passed, be submitted to the other Ting; if it is altered there, it goes back to the first; if it again undergoes alterations here, the Bill goes back once more to the other Ting. If no agreement is reached, each Ting shall, if one of them demands it, appoint an equal number of members to form a committee, which studies the points of disagreement and furnishes a report to the Tings. A final decision with reference to the Committee's report is taken in each Ting separately."

It need scarcely be stated that, in endeavouring to describe the recent relations between the two Chambers, strict impartiality has been one of the chief objects in view.

An expression of thanks is due to Dr. (Juris) Knud Berlin, author of "Oplösningsretten overfor Lovgivende Forsamlinger" ("The Right of Dissolution with regard to Legislative Assemblies" Copenhagen, 1906; for much valuable assistance in the attempt to elucidate the rather delicate problem.

During the last teen years no serious constitutional disputes between the Landsting and the Folketing have taken place, at least none that can compare with the great constitutional conflict of the years 1873-94.

Latterly, however, the relations between the two Chambers have been of a nature which threatens to entail a fresh conflict, or, what is perhaps more probable, a fresh political compromise.

It would be next to impossible to enumerate the points of difference which stand out pre-eminently from the rest, as the disagreement would appear to be rather of a general than of a special character, owing to the conflicting interests of the largely democratic Folketing and the necessarily conservative Landsting.

On the conclusion of the great political compromise in 1894, which terminated the long and keenly-waged war between the two Houses, the Landsting and the Conservative Government ("Höjre"), which it supported, may, on essential points, claim to have emerged as victors. The Government, which be it remembered had a minority in the Folketing, did not, it is true, succeed in obtaining legislative recognition of the fortification of Copenhagen by land, which had been effected on the strength of "provisional" Budgets and without legal supplies, nor in securing indemnity in repect of the numerous "provisional" laws promulgated during the years of conflict. The "provisional" land fortification, however, received a tacit acknowledgement in that supplies were granted for their upkeep, and, while the Folketing reserved their right of impeaching the Ministers before the "Rigsret" (a special political court provided for in sections 14, 68 and 69 of the constitution, and composed of members of the Supreme Court and an equal number of members of the Landsting), such a step was never considered practicable nor seriously entertained. This victory once achieved, the power of the Landsting commenced to decline. At the compromise the Government had been obliged to agree, either directly or tacitly, not to issue any more "provisional" Budgets, and consequently when they were again forced to obtain the consent of the Folketing to fresh supplies and new laws the Second (Lower) Chamber necessarily became the dominant partner.

The new Moderate Liberal party ("Venstre Reform parti") under the leadership of Herr J. C. Christensen, knew how to make the most of their opportunities. They (the Opposition) apparently showed themselves very ready to negotiate with the Government, and a few of the more important laws of a non-political nature were passed, e.g., the law concerning workmen's compensation, 1898; the law regulat-

ing economic conditions of marriage, April, 1899; and the law respecting allotments for farm labourers, 1899, but they managed to block all the important measures, especially those effecting reforms in taxation and in the tariff, and those relating to the payment of officials, while laying the blame at the door of the Government, whom they reproached with retaining their portfolios year by year, although they could not carry any of the great reforms desired by the country.

The successive Conservative ("Höjre") Cabinets gradually lost the confidence of the electorate, who demanded that government by the Landsting should be replaced by government by the Folketing.

Owing to the predominant advantage enjoyed by the Lower House through the right to discuss the Budget first, as already explained, with the consequent power of restricting its discussion by the Upper House to a few weeks just before the close of the financial year, the Folketing was virtually possessed of the key of the Exchequer. The Financial Committee of the Folketing, in which the Liberals ("Venstre") formed the majority, thus in reality proved more powerful in all matters relating to supply than the actual Government, and when the Sehested Cabinet had come to the end of their resources, much of the money having been expended in the fortification of Copenhagen, and were obliged to ask the Folketing for a public loan, their request was refused. They thereupon resigned, and a Liberal ("Venstre") Cabinet under Herr Deuntzer took office on the 24th July, 1901. The appointment of the Deuntzer Cabinet marked an epoch in Danish constitutional history, in that it was an acknowledgment of the parliamentary system, and this change of Government is consequently known as the "change of system."

At first the new government met with no small measure of success, and managed to pass many of the Bills which they had resisted when in Opposition, but when they endeavoured to give effect to the programme to which they were pledged, the Landsting once more proved that it was a power to be reckoned with, and the Government had to shape their measures accordingly, if these were to stand any chance of being carried through the Upper House.

Many of the items in the original programme of the Liberals ("Venstre") have from time to time met with disaster at the hands of the Landsting. For instance, between the years 1902 and 1906 the Bill presented by the Government in regard to obligatory civil marriage was rejected three times in succession by the Landsting (which desired that it should not be obligatory but optional), although in 1902-3 it was unanimously agreed to by the Folketing. This measure has now been abandoned.

In like manner the Bill relating to reform in criminal and civil procedure, aiming at the introduction of public and oral proceedings and the prosecution and jury systems in the law courts, has for many years (1901-2 to 1906-7) been wandering backwards and forwards between the two Chambers without any compromise being effected. The bone of contention in this case being the class from which jurymen are to be drawn.

But perhaps the main source of conflict has been the Communal Voting Reform Bill, by which it is proposed to introduce equal and universal suffrage at communal elections. This Bill has been under discussion since 1903, and the Landsting has, so far, offered strong opposition to it.

The Bill deals with elections for the "Amtsraad" (Communal or County Council), the "Byraad" (Town Council), and the "Sogneraad" (Parish Council).

By the present system, members, exclusive of the "Amtmand," or Chief Magistrate, who is Chairman of the Council, are elected to the Communal Council, ("Amtsraad")—the number composing which is always uneven—partly, i.e., the larger "half," by deputy electors, chosen one by each Parish Council ("Sogneraad), and partly, i.e., the lesser "half," by the most highly assessed taxpayers in the commune who vote direct, and to the Parish Council, the number of whose members is also

uneven, partly, i.e., the larger "half," by the highest taxed fifth of the inhabitants, and partly, i.e., the lesseer "half," by all the taxpayers over 25 years of age, both parties being direct voters in this case.

The same system applies to the Town Council ("Byraad") as to the Parish Council, except that for the Town Council the lesser "half" of the deputy electors are chosen by the highest taxed fifth of the inhabitants. For all three councils elections are at present decided by a majority of votes.

Before reviewing the Bill it is necessary to explain that the balance of power in the Landsting is virtually in the hands of a party which practically does not exist in the Folketing, viz., the Free Conservatives, consisting of nine members under the leadership of Count Frijs, as their nine votes are at present sufficient to decide the fate of any measure. It was consequently between this party and the Government that negotiations took place in regard to the Bill.

In the new measure the Government's, or, in other words, the Folketing's principal proposals were roughly as follows:—

1. For the Parish and Town Councils, one man one vote among the taxpayers, including servants and women, with a residential qualification of one year.

2. Abolition of the assessment qualification for the Communal Council ("Amtsraad").

3. The system of proportional representation to be applied to all three Councils.

4. Members of the Communal Council to be elected by deputy electors, who (two from each Parish Council) must be elected by and from amongst members of the Parish Council.

The counter-proposals put forward by the Landsting were:—
(*a.*) By the old Conservative Right ("Höjre"):—

1. For the Parish and Town Councils the principle of one man one vote, etc., including women, but not servants (though, finally, this point was ceded), to be accepted, but only as regards "half" of the Council, and with a two years' residential qualification, while the other "half" must be chosen by voters over 40 years of age.

2. The assessment qualification for electors of deputy electors to the Communal Council to entail a higher number of votes than at present, viz., three from each Parish Council, and as many from the most highly assessed taxpayers, instead of one and one respectively.

3. Proportional representation to be adopted.

4. Voting to be compulsory.

(*b.*) By the Free Conservatives, and these proposals were more important as the negotiations turned on them:—

1. For the Parish and Town Councils, the principle of one man one vote, etc., including women and servants, to be accepted, but with a residential qualification of two years. (It was stated, however, that the Bill would not be sacrificed on this point.)

2. The assessment qualification for the electors of deputy electors to the Communal Council to entail two votes, i.e., two from each Parish Council and two from the most highly assessed taxpayers.

3. For the Parish and Town Councils every voter over 40 years of age to have two votes—half of the members of the Councils to be elected by those

voters over 40 years, and the other half by those over 40 years and the rest of the voters conjointly.

4. Proportional representation to be adopted.

5. The Parish Council to be restricted from raising the existing taxation beyond specified limits.

This last condition of the Free Conservatives was answered by a proposal of the Government that previous to the imposition of higher taxation a *referendum* to all the voters i.e., taxpayers should be necessary.

6. Municipal trading to be limited to certain specified undertakings, such as tramways, telephones, etc. Information as to how far this point was insisted on is not forthcoming.

Protracted negotiations took place in regard to the Bill between a member of the Government and Count Frijs during the session 1906-7, with a view to effecting a compromise, but unfortunately they led to no definite results, and the Rigsdag adjourned, both Houses maintaining their original ground.

The results of the negotiations, so far as they went, were roughly that:—

1. The principle of proportional representation was accepted by both parties.

2. Womens' suffrage was accepted by both parties for the two Lower Councils.

3. Both parties also agreed that there should be no assessment qualification for the two Lower Councils, while there were to be restrictions as regards increased taxation. On the point of restrictions the Government would only grant a *referendum,* while the Free Conservatives insisted that any increased taxation proposed by the Parish Council must have the previous approval of the Communal Council, and by the Town Council of the Ministry of the Interior.

They also insisted on an age qualification for both the Lower Councils.

4. The Government are believed to have agreed that an assessment qualification should be maintained for the Communal Council, but it is not known what view the Folketing would take of such a concession to the Landsting.

Other measures of political interest have also been proposed by the Folketing and rejected by the Landsting, such as the enlargement of the Folketing constituencies and the revision of section 32 of the constitution, which enacts that the Folketing shall consist of approximately one member for every 16,000 inhabitants. This has always been a dead letter, as the present Chamber consists of 114 members, while for compliance with the section about 160 would be necessary. The Government proposal was to increase the present number to a fixed total of not less than 124 nad not more that 132.

Again, a Bill relative to Ministerial responsibility has been under discussion since 1904-5. Section 12 of the constitution merely states that the Ministers are responsible, and that their responsibility is to be more closely defined by law.

On the other hand, Bills which have originated in the Landsting have been rejected by the Folketing, as, for instance, that proposing an increase in the excise duty on alcohol in 1899. This proposal the Folketing dismissed in March, 1900, it being considered that such an impost would weigh heavily on the working classes, who, in Denmark, consume a large quantity of alcohol in the form of "Akvavit."

It is commonly supposed that the Landsting and Folketing are not altogether at one on the subject of tariff matters, the Landsting being credited with protectionist,

and the Folketing with free trade, proclivities. It is believed that the Upper House would not be averse to a duty on corn.

The apparent impotence of the Folketing to enforce its will in the Landsting has naturally given rise to much bitter comment from the Social-Democratic and Radical parties, and many strong threats have been used both at political gatherings and in the press of waging war against the Landsting, but the responsible Ministers have so far always counselled patience, especially as the means at the disposal of any Government for such a campaign are necessarily limited.

It is true that the Crown can at any time dissolve the Landsting, but it is a much-debated question whether such a dissolution would embrace the whole Landsting, or only the elected members. As already stated, of the sixty-six members of the Landsting, twelve are appointed by the King for life, while fifty-four are popularly elected for eight years and the question in dispute, which is peculiar to Denmark, is whether the twelve members appointed for life must vacate their seats at a dissolution—which would enable the Crown to appoint twelve new ones to fill their places—or not.

The Liberals ("Venstre") maintain that they must, relying on the fact that by the former constitutions of 1855 and 1863, they were appointed for twelve years only, while the Conservatives ("Höjre") maintain the opposite view, and interpret appointment "for life" as exempting them from the effects of a dissolution.

Section 22 of the present constitution, on which the Liberals further rely, merely states that the King has the right to dissolve either Chamber, and contains no reservations.

Section 39, on which the Conservatives again rely, states that the appointment of the nominated members is for life, and, in specifying the cases in which such members may, or must, vacate their seats, makes no mention of a dissolution.

Unless the Government can dissolve the whole Landsting, including the twelve nominated members, most of whom were appointed whilst a Conservative ("Höjre") Government were in office, they cannot embark on a campaign against that Chamber with any certainty of success, in view of the peculiar conditions attending its composition. The fact that a large number of votes are allotted to the highest taxpayers in the country, and consequently to the large landed proprietors, renders it very unlikely that an election, consequent on a dissolution, would result in much change among the parties returned, unless the present system of suffrage were radically altered.

While many persons, no doubt, are of opinion that, if no other means can be found to enforce the will of the Folketing, then the twelve life members must at any cost be deprived of their seats at a dissolution, yet there would appear to be no general desire among the masses to raise a new constitutional conflict, if such can be avoided; and it is intelligible that a Government should shrink from applying to the constitution an interpretation which many people refuse to accept, especially as the issue of a dissolution itself cannot be otherwise than doubtful. Moreover, a precedent created by one Government may be applied by another.

The fact that most of the Conservative nominated members are well advanced in years no doubt exercises a moderating influence with those who would lead a campaign against the Upper House, as in the natural course of events their places will be filled by Liberal nominees—always provided the present Government remain in office—with the ultimate result that the Liberals will obtain the necessary majority. This is also adduced as an argument why the Landsting, as at present constituted, should be anxious to effect a compromise with the Folketing in regard to matters of high political importance, before it loses the majority in the Upper House. Four Liberal life members have already been nominated by the Crown since the present party came into power.

Prophecy with regard to the fate of the twelve nominated members of the Landsting would be idle at this juncture, but the advent of a fresh political compromise of a general nature would undoubtedly be welcomed by many as the most efficacious means of preventing a more acute development of existing disagreements.

The nature of the relations between the two Chambers during the last ten years will be more readily appreciated if the events which led to the great political compromise of April, 1894, are briefly passed in review, and if the main points of the compromise itself are explained.

In 1864, on the conclusion of the war, and after the loss of the Duchies, Denmark was faced by the problem as to which of her two constitutions should be definitely adopted. That of 1849 had in 1855 been specially restricted to Denmark alone, whilst that of 1863 applied to Denmark and Schleswig jointly. The Left demanded that the country should revert to that of 1849, but the Right considered that under it Conservative interests, especially as regards the Landsting, were not sufficiently safeguarded, and the National Liberal party supported them, as they considered the provisions of the constitution in question too democratic.

An alternative proposal was finally agreed upon between Count Frijs (the father of the present leader of the Free Conservative party), representing the Landsting, and Herr Hansen, the leader of the Left, which resulted in the present constitution of the 28th July, 1866. This understanding between Count Frijs and the Left (which is generally known as the "understanding between the great and the small farmers") lasted till his retirement from the Presidency of the Council in 1870, when the new Cabinet, under Count Holstein-Holsteinborg, effected a compromise between the landed interests of the Landsting and the official and business interests of the National Liberal party. This led to a new party, known as the United Left, being formed in opposition to the Government, with the maintenance of the parliamentary system as the chief item in its programme. In 1872 the United Left obtained a majority in the Folketing, and that Chamber agreed to petition the King with a view to the formation of a Left Cabinet, representative of the majority in the Folketing, but without result. The Folketing next threw out the Budget (1873), and the Government replied by dissolving the Ting. The long war between the Landsting, which formed the Government, and maintained that according to the constitution it had equal rights with the Folketing, and that the King could act independently of this Chamber had now begun.

In 1875 Herr Estrup formed a new Government, who retained their portfolios until 1894. The chief items in their programme were the fortification of Copenhagen and the equal rights of the Landsting. The Left and the Folketing were willing to vote 30,000,000 kroner (1,666,666*l.*) for defence purposes, but not for the fortification of Copenhagen, and they desired that the necessary funds should be raised by an income and property tax. This question of defence led to the Folketing being dissolved in 1876. Subsequently, when the Tings could not come to an understanding about the Budget, the first "provisional" Budget was issued in April, 1877, on the strength of section 25 of the constitution of 1866, which enacts that, "in extremely urgent cases the King can, when the Rigsdag is not in session, issue provisional laws, which must not, however, conflict with the constitution, and must always be submitted to the following Rigsdag."

For the next few years the Folketing voted such extremely limited Budgets (known as the "shorn poodles") that the Government again resorted to the system of provisional Budgets from 1885 to 1894, and under them money was devoted to services which the Folketing had expressly vetoed, especially the fortification of Copenhagen.

Feeling in the country ran very high, but people were weary of a conflict which prevented the necessary laws being passed, and in April, 1894, the Moderate Left and the Right in the Folketing made the famous "compromise," to which the Landsting agreed.

Allusion has already been made in the body of this report to the results emanating from the compromise, the main object of which was to prevent, in the future, political conflicts such as existed at the moment, and to put an end to the system of "provisional"

Budgets. The Rigsdag passed a resolution amongst others to the effect that, in future, if the discussion of the Budget for the ensuing financial year had not been completed by the end of the current financial year, the Government ought to propose, and the Rigsdag ought to agree, to an "interim" Budget, framed on lines which they indicated and for a period not exceeding two months.

This arrangement, which it must be borne in mind was neither part of the constitution nor even a law, and could be denounced by either Ting at any time, received important recognition in 1902, in that the Liberal Reform party, who were then in office, but who had been the opponents of the compromise in 1894, availed themselves of this form of "interim" Budget, the two Chambers not having completed the discussion of Estimates by the end of the then financial year.

J. C. T. VAUGHAN.

COPENHAGEN, October 10, 1907.

FRANCE.

No. 5.

Sir F. Berti to Sir Edward Grey.—(Received August 9.)

PARIS, August, 5, 1907.

SIR,—I have the honour to transmit to you herewith a report drawn up by Mr. George Grahame, Second Secretary at His Majesty's Embassy, on the Senate in France, in accordance with the instructions conveyed to me in your Circular despatch of the 10th ultimo.

I have, etc.,

FRANCIS BERTIE.

Inclosure in No. 5.

REPORT BY MR. GRAHAME.

Part I.—Composition and Functions of the French Senate.

The French Senate is the creation of the National Assembly, which body, elected in 1871, voted in 1875 a series of laws which form the basis of the present constitution. The law organizing the Senate bears the date of the 24th February, 1875. It provided for the creation of a Chamber to consist of 300 members, of whom seventy-five were to be nominated by the National Assembly for life. The remaining 225 were to be elected by the departments and certain colonies, the number of senators to be allotted to each being exactly laid down; seven seats were given to Algeria and the colonies.

2. The members of the Senate are elected for nine years, "au scutin de liste" (the system by which each elector in the department is entitled to vote for as many candidates as there are seats to fill); a third part of the Senate has to be renewed every three years. A candidate for election must be 40 years of age, and in full enjoyment of civil and political rights.

3. Senators are elected by an Electoral College, meeting in the chief town of the department or colony, and composed of (*a*) the parliamentary deputies; (*b*) the members of the Departmental Council ("Conseil Général"); (*c*) members of the District Councils ("Conseils d'Arrondissement"); (*d*) delegates elected from among the electors of the Commune by each Municipal Council.

4. The Electoral College is thus composed of "electors by right" and "elected electors." The term "municipal council" in France applies equally to rural and to urban districts, the whole country being mapped out into communes each with its municipal council.

5. A modification in the position of the Senate was effected in 1884, after considerable agitation and discussion between political parties on the question of a reform of the Second chamber. By the constitution the Chamber of Deputies had no means of obliging the Senate to join it in congress, and so to form a National Assembly by which alone a change could constitutionally be effected. The constitution establishes that: "The Chambers have the right by separate deliberations, passed in each House by an absolute majority of votes, either on their own initiative or on that of the President of the Republic, to declare the necessity of revising the constitutional laws. After each chamber shall have passed this resolution, they shall meet as a National Assembly to proceed to this revision."

6. The reform of the Senate, undertaken in 1884 by the Ministry of M. Jules Ferry, had thus to be accomplished with the consent of that body. After considerable negotiations the Senate finally agreed to meet the Chamber in congress in order to discuss the question of reform, but on the understanding that its rights over financial questions should not be subjected to discussion. The Chamber, at the instance of the Prime Minister, accepted this arrangement, and the two Houses met as a National Assembly. The result was certain changes in the constitutional law respecting the composition and election of the Senate, the most important of which was the abandonment of the system of nominated life senators. According to the original constitution, the vacancies which occurred among the seventy-five senators nominated by the National Assembly in 1875 were to be filled by the Senate itself. It was decided in 1884 that henceforth the entire Senate should be an elected body; the existing life senators retained their seats, but at their death they were to be given by lot to certain departments to which it was agreed to assign extra seats. The Electoral Colleges were constituted in the same manner as before, except that the number of the delegates of the municipal councils was increased in proportion to the population of the communes. Hitherto each municipal council named one delegate to the Electoral College; it was provided that henceforward municipal councils composed of ten members should elect one delegate, those of twelve members two delegates, those of sixteen members three delegates, those of twenty-one members six delegates, up to councils of thirty-six members and over, which would elect twenty-four delegates. The Paris Municipal Council with its eight members was, however, placed on a special footing, and given thirty delegates to the Electoral College.

7. The 300 senatorial seats were distributed in the following manner (article 2, law of the 9th December, 1884): 10 seats were given to one department (Seine), 8 seats to one department (Nord), 5 seats to ten departments, 4 seats to twelve departments, 3 seats to fifty-two departments, 2 seats to ten departments. The territory of Belfort (Haut-Rhin), the three departments of Algeria, and the four colonies of Martinique, Guadeloupe, Réunion, and French India were each given one seat.

8. The legislative power is exercised equally by the Senate and the Chamber of Deputies; the former has, however, certain special attributes which will be mentioned later on. The Executive and the Legislative have both the right of introducing Bills; those emanating from the Executive are styled "Projets de loi," and those from either Chamber "Propositions de loi." Bills can be voted first by the Senate or the Chamber indifferently, except in the case of financial measures, with regard to which it is laid down in the constitution that "all financial legislation shall be in the first instance submitted to the Chamber of Deputies and voted by it." There is apparently nothing in the constitution which prescribes for the Senate a position of legislative inferiority to the Chamber, unless the above stipulation be so regarded.

9. In the absence of any precise means of settling constitutionally any disagreement between the Senate and the Chamber, Rules of Procedure bearing on the

matter have been drawn up by each House. There is a slight difference in these rules, which are here given:—

"(A.) *Senate.—Rules of Procedure ("Règlement").*

"Article 130. When a Bill voted by the Senate has been modified by the Chamber of Deputies, the Senate may either deliberate again on the Bill or submit it to the 'bureaux' of the House, or send it back to the committee which has already considered it. The Senate may also, on the proposal of one of its members, determine that a committee be appointed to confer with a committee of the Chamber of Deputies with the object of agreeing on a text.

"Article 131. If the two committees come to an agreement, the Senate committee reports to that body, which takes the new text into consideration.

"If the Senate refuses to accept the proposal for a conference, the Bill may not be again placed on the order of the day until two months have elapsed, except on the initiative of the Government.

"The same will occur in cases where the committee of the two chambers fail to agree, or if the Senate persists in its original resolution."

"(B.) *Chamber of Deputies.—Rules of Procedure.*

"Article 144. When a Bill voted by the Chamber of Deputies has been modified by the Senate, the Chamber of Deputies may determine, on the approval of one of its members, that a committee be appointed to meet a committee from the Senate with the object of agreeing upon a text.

"The Chamber shall decide if powers to this effect shall be conferred on the committee which has already reported on the Bill, or on a new committee elected from among the 'bureaux' of the House.

"Article 145. If the two committees agree on a text, the committee named by the Chamber of Deputies reports to that Assembly, which thereupon deliberates again on the matter.

"Article 146. If the Chamber of Deputies refuses to agree to the proposal for a conference, the Bill may not be again placed on the order of the day until two months have elapsed, except on the initiative of the Government. The same will occur in cases where the two committees fail to agree on a text, or if the Chamber persist in its original resolution."

10. The Senate cannot be dissolved, whereas the Chamber of Deputies may be before the legal expiration of its mandate by the President of the Republic, but only with the previous consent of the Senate. It thus happens that, in a case of conflict between the two chambers and a deadlock resulting, an appeal to the country as a way out of it cannot be made unless the Senate gives its consent.

11. The Senate possesses also judicial functions. It may be constituted as a High Court of Justice to try the President of the Republic or the Ministers; to take cognizance of attempts or conspiracies against the safety of the State, and to try the persons implicated.

12. The sessions of both Chambers must begin and end at the same time, except that the Senate may meet—

(*a.*) If the Chamber of Deputies is dissolved at a moment when the Presidency of the Republic becomes vacant;

(*b.*) When the Senate is constituted as a High Court of Justice.

13. The Senate and the Chamber of Deputies must give their consent before the President of the Republic may declare war. The same applies, with certain reservations, to a declaration of a state of siege.

14. The following passage from the Constitutional Law of 1875 applies to the treaty-making power in France:—

> "The President of the Republic negotiates and ratifies treaties, but he must inform the Chambers of such treaties as soon as the interest and safety of the State permits. Treaties of peace and commerce, those engaging the finances of the State, or relating to the personal status or rights of property of French citizens abroad, are not definitive until they have been passed by the two Chambers. No cession, exchange or increase of territory can take place except by virtue of a law."

15. While the President of the Republic may grant individual pardons by decree, he may not proclaim an amnesty unless the Senate and Chamber approve.

Part II.—Control of the Senate over Public Finances.

1. Article 8 of the Constitutional Law of the 24th February, 1875, states: "The Senate has, equally with the Chamber of Deputies, the right of proposing and making laws. But financial measures must in the first instance be submitted to, and voted by, the Chamber of Deputies."

2. The interpretation of this article has occasioned numerous disagreements between the two Chambers, which have only been settled by the exercise of moderation and a spirit of conciliation. The question arose immediately after the new regime was established in connection with the first Budget presented to Parliament. It was then seen that the rights of the Senate might become a subject of controversy with the other House. Questions were raised as to how the Senate's right of introducing legislation was to be harmonized with the stipulation as regards finance made in favour of the Chamber by the Constitutional Law. Was there merely a right of priority? Had the Senate the right of replacing in the Budget credits disallowed by the other Chamber? If such a course were permissible, and if the Chamber of Deputies persisted in its original resolution, how was the difference of opinion to be settled? If a financial law were promulgated after the amendments made in it by the Senate had been definitively rejected by the Chamber, the Senate might rightly protest that the constitution had been violated, seeing that it was therein laid down that both Chambers must vote a law before it was promulgated.

3. It may be said that in theory the exact rights of the Senate have never been settled. It has been asserted that the question is settled in practice by what has been called "the system of the last word," which must rest with the Chamber of Deputies. But is, perhaps, more accurate to say that disagreements between the two Houses on financial matters have usually been arranged by a compromise on the actual questions at issue, without the principle being made the subject of conflict, and that when the Senate has yielded it has been under the express understanding that its full rights in financial matters are reserved.

4. The manner in which this important question of constitutional right is regarded in France may possibly be best shown by some quotations from the speeches of leading public men at different times when the rights of the Senate in financial matters have been challenged.

5. In 1876, the Senate having voted an increase of credit over and above that sanctioned by the Chamber, M. Gambetta, president of the Budget Committee of the latter Assembly, made the following declaration: "It is our view that, in accordance with article 8" (of the Constitutional Law), "when the Government has submitted to you a financial proposal, and if this proposal is rejected by you, nothing remains of it when the Budget is sent to the Senate. To hold another view is tantamount to suggesting that the Senate has an initiative of its own. A financial proposal made by

the Minister of Finance to the Chamber only receives a legal existence when you have approved it. If it be not brought into legal existence by your action, it is nothing more than a piece of paper. If the Upper Chamber has no right of initiative in such matters, it follows that it may only examine and vote a credit after such credit has been voted by the Chamber of Deputies. Whence can the Senate derive its right of initiative? Neither from article 8 nor from precedent. It can only be found in its own will."

6. The Prime Minister, M. Jules Simon, answered M. Gambetta in these words: "The question is this: Has the Senate the right of examining credits voted by the Chamber—to reject some and to replace others? It is the meaning and not the validity of article 8 which is at issue. I find this article perfectly clear. It states that financial laws must in the first instance be submitted to, and voted by, the Chamber of Deputies. It follows that in the second place they must be submitted to, and voted by the Senate. Where is the difficulty? You may say it lies in the word 'voted,' But this expression is clear. The Senate must vote as the Chamber votes. . . . I have heard it said that this means that the Senate will thus have the initiative in matters of expenditure, and that it can therefore dispose of the taxpayers' money. No; that is not so. The Senate has the right of replacing credits in the Budget, but in so doing it does not oblige an expenditure to be made. When the Senate has passed a vote, what have you before you? A proposal on the part of the Senate; it is not a law until you have approved it."

7. In 1881 the Cabinet of M. Gambetta expressed the following views with regard to the control of the Senate over financial matters in the preface to its proposal for constitutional revision: "It must be clearly laid down, beyond all possibility of discussion, that when the Chamber of Deputies has shown its intentions with regard to the Budget, the Senate has the right of making remonstrances to the Chamber, to point out that this or that tax, this or that credit or suppression of credit, is unjust or inopportune, or to suggest a modification of the whole of the Budget. But the right of the Senate ends there. The Chamber of Deputies must have the last word, and its decision must be final.

8. The proposal made in 1881 for constitutional revision was not carried into effect, and the two Chambers found themselves again in disagreement respecting the Budget of 1883. The Senate voted considerably increased credits on some heads, and reduced them on others. The Chamber accepted the reductions and rejected the increases, and the Senate thereupon voted the Budget; but the reporter of the Budget Committee, in recommending its adoption, read a declaration protesting against any attempts on the part of the other Chamber to interfere with the rights of the Senate, and recording again the prerogatives of the latter in financial matters.

9. The question was raised once more in connection with the Budget of 1885, in which the Senate had introduced a large increase of credit. M. Jules Roche, the reporter of the Budget Committee of the Chamber of Deputies, made a speech at the sitting of the 7th March, 1885, showing that the last word in financial measures must remain with hte Chamber. He states that the Senate had the constitutional right of discussing, approving or disapproving the decisions of the Chamber, and consequently of provoking a second consideration of the matter on the part of that Assembly. The Senate, however, had in no way the right of initiative, nor the last word in the case of the suppression or diminution of credits, which were the essential attributes of the Chamber of Deputies directly elected by universal suffrage. It was essential, if the national sovereignty were to be properly exercised, that, when it was a question of an increase of credit, the last word should rest with the Chamber, seeing that such a course was the natural and necessary consequence of the priority given to it in voting financial measures, and of the absence of any right of initiative on the part of the Senate.

10. The following is an extract from a speech by M. Ribot in favour of conciliation made during the debate which ensued: "The two Chambers should be allowed to

pursue their negotiations, which may frequently be laborious, but which are the necessary conditions of a parliamentary regime. An agreement will be the more easily found seeing that the constitution has rendered conciliation an every-day political necessity. It is, indeed, the basis of a parliamentary regime, and one of the inevitable conditions of the existence of two Chambers."

11. In the case of this dispute, as of previous ones, a compromise was found, and a conflict between the two Chambers on the question of principle averted.

12. A speech, made in the Senate on the 9th April, 1895, by M. Loubet, when president of the Budget Committee of that House, may also be noticed as bearing on the question. He said: "The Chamber of Deputies has, by the terms of the constitution, the initiative of financial laws. We, like you, are concerned in preserving for the Senate all its prerogatives, but the very fact of this should make us scrupulous in respecting the special prerogative of the Chamber of Deputies. . . . We have the right of examining the Budget law, and we do each year with scrupulous attention. We can introduce amendments in it—now is not the moment for discussing the conditions under which this right may be exercised—but it is impossible to entertain a complete new set of Budget proposals; they must first be passed by the Chamber of Deputies before they are submitted to the Senate."

13. No disagreement respecting finance has occurred of recent years between the two Chambers of such a kind as to give rise to anything amounting to a conflict between them.

Part III.—Recent Constitutional Disputes between the two Houses.

1. There cannot be said to have been any constitutional conflict during the last ten years between the Senate and Chamber. Just before this period, however, in 1896, a serious conflict took place between the Senate and the Ministry of M. Bourgeois, which brought about the retirement of the Cabinet, in spite of the fact that it retained the confidence of the Chamber of Deputies. In this way there may be said to have been incidentally a conflict between the two Houses, but on M. Bourgeois' resignation the grounds of dispute were removed, and the matter soon dropped.

2. An account of the relations between the Senate and M. Bourgeois' Ministry may be of interest, as showing the very real power possessed by the Second Chamber when it is determined to make its will effective.

3. M. Bourgeois formed his Cabinet at the beginning of November, 1895. For the first time since the establishment of the Third Republic, a Ministry came into power which could claim to be exclusively Radical The ministerial declaration mentioned various measures which had formed part of the programme of the Radical party, among others a graduated income tax and succession duties, and workmen's pensions, while a general determination was evinced to recast the whole financial system in a more democratic spirit. No mention was made of a reform of the Senate, though a curtailment of its powers had long formed one of the measures demanded by the Radicals, as being a necessary preliminary to the full accomplishment of democratic reforms.

4. Speculation was rife from the outset as to the attitude which the Senate would take up towards the Ministry, and especially towards the financial proposals, and early in 1896 a certain hostility to the Ministry began to be apparent. The Senate persisted, in the face of the Prime Minister's expressed wishes, in adopting a proposal affecting the right of strike on the part of railway employees. This action was soon followed by an adverse vote respecting the action taken by the Minister of Justice in removing an examining magistrate ("juge d'instruction"), who was conducting an investigation into alleged scandals connected with the Southern Railway Administration. On the 11th February the Senate passed an Order of the Day, objected to by the Prime Minister, by a majority of ninety-four. The Ministry thereupon (13th February) made the question into one of confidence in the Chamber of Deputies, and obtained an approval of its general policy by 326 votes to 42. On the 15th February the

Senate replied by adopting a resolution confirming its vote of the 11th February, although M. Bourgeois had stated that the Government was absolutely opposed to it. A fresh debate took place in the Chamber of Deputies a few days later, and the Ministry again obtained a majority, this time of only forty-five votes.

5. From this moment the conflict was definitely opened, but the Senate did not yet push matters to extremities. M. Demôle read a declaration on behalf of the three Republican groups of the Senate, protesting against the attempt on the part of the Ministry to govern without taking the Senate into account. The declaration continued: "The Ministry has considered that it could appeal from one Chamber to the other. It pretends that ministerial responsibility cannot be made a question in the Senate. . . . We affirm anew our right of control, and the responsibility of Ministers to both Chambers. One answer to the words and acts of the Cabinet might have been an absolute refusal to co-operate; but the Senate does not desire to suspend the legislative life of the country or to renounce its duties, in spite of the attitude of the Ministry. It is determined to maintain all its rights and independence without other preoccupation than the interests of the country, and it intends that the Ministry shall give an account to the Senate of its proceedings. The country will decide the issue between Ministers who have not hesitated to raise so grave a crisis and an Assembly which, in the interests of the public peace, does not wish to aggravate further a constitutional conflict."

6. This declaration was approved by 175 votes to 59. The Radical organs declared that the Senate had, in fact, given in to the Cabinet, and that Assembly was charged with raising difficulties for the Government on account of its dislike of their financial proposals, which were by this time under consideration by the Chamber of Deputies.

7. On the 29th February the Prime Minister accompanied the President of the Republic on a tour in the south of France, and on several occasions manifestations in favour of M. Bourgeois took place, to which the conflict with the Senate gave especial significance. The presidential cortège was at various times greeted with cries of "A bas le Sénat!" and utterances which were held to have an offensive character towards that Chamber. Considerable indignation was shown in the Senate that such manifestations should have been tolerated under the eyes of the President of the Republic and Prime Minister, and an intention was expressed of interpellating the Government on the subject. The Minister of Commerce, however, gave some explanations as to what had occurred, and no interpellation took place. A senator remarked, "We accept your excuses," to which the Minister replied: "It is not a question of excuses, but of facts." These incidents were obviously not of a nature to improve the relations between the Senate and the Cabinet.

8. At the beginning of April the Chamber of Deputies voted supplies in connection with the military expedition in Madagascar, and adopted the unusual course of adjourning till the 19th May without previous agreement with the Senate. The latter had only voted supplies up till the 30th April, and the Chamber had arisen without waiting for the Senate to pass further ones after that date. The circumstances of the adjournment of the House were the more marked as it had taken place on the initiative of the supporters of the Ministry, and the Ministers who were deputies had voted for it. The proceeding was interpreted as a further manifestation of disregard for the other House.

9. In the meantime an interpellation had been announced in the Senate respecting foreign policy. M. Bourgeois, having failed to obtain an adjournment of the discussion, stated that he had nothing to add to his former declarations, and that the Government could not reply to the interpellation. The Senate thereupon passed by 155 votes to 85 the following resolution: "The Senate, taking note of the declaration of the Government, and judging the explanation insufficient, cannot accord them its confidence, and passes to the Order of the Day.

10. The Senate then adjourned till the 21st April without having voted the Madagascar supplies. A Cabinet Council was held, and the Government decided not to resign in consequence of the attitude of the Senate. Everything, however, pointed to the imminence of a crisis.

11. An event occurred at this juncture outside Parliament, which was universally recognized to be of great importance. The Departmental Councils ("Conseils Généraux") had been solicited to express their views on the question of the proposal of the Government for an income tax. The significance of an expression of the views held by these Assemblies, elected by universal suffrage, and themselves forming a considerable part of the electorate of the Senate, was obvious at a moment when that House and the Ministry were involved in so grave a dispute, and one which, it was freely asserted, had its predisposing cause in the antagonism felt in the Senate to the financial policy of M. Bourgeois' Cabinet.

12. Sixty Departmental Councils pronounced against the principle of the income tax; eleven accepted the principle, but with reservations which amounted to a condemnation of the Government plan; some others abstained from expressing an opinion. and only about sixteen could be said to favour it entirely.

13. On the 21st April the Senate met again. Three courses appeared to be open to it. It could either vote the supplies as they stood, or vote them with a reduction on some heading, which would have rendered it necessary to convoke the Chamber, or refuse them altogether. In the last case the Ministry would be placed in the position of being unable to carry on legally the government of the country as the expenditure concerned could not be incurred without special sanction. As soon as the Senate met, M. Demôle read a declaration in the name of the three Republican groups, to the effect that the Government had remained in power in violation of the constitutional law after the Senate had on three occasions by considerable majorities withdrawn from them its confidence. The groups in whose name he spoke did not, he said, refuse the Madagascar supplies, but they would not vote them while M. Bourgeois' Cabinet remained in power, and they accordingly proposed that the vote should be adjourned till the Senate had before it "a constitutional Ministry having the confidence of the two Chambers."

14. This declaration was approved by 168 votes against 91. The Cabinet then determined to resign. but declared that it wished the Chamber to be first convoked. The Chamber was immediately summoned, and met on the 23rd April, when the Prime Minister made a statement of the circumstances which, in the opinion of the Cabinet, rendered its resignation inevitable. The action of the Senate had, he said, rendered it impossible for the Government to obtain supplies for the French troops in Madagascar, and they resigned on the patriotic ground that no action of theirs should delay the voting of the expenditure required for the defence of French interests in Madagascar.

15. The members of the Government then withdrew from the Chamber, and the Prime Minister placed the resignation of the Cabinet in the hands of the President of the Republic. The Chamber continued a discussion amidst considerable agitation, and finally voted a resolution affirming the "preponderance of universal suffrage and the determination to pursue democratic reforms." Only 257 Members recorded their votes in favour of this resolution; 324 either abstained from voting or were absent.

16. The Senate at once voted the Madagascar supplies on learning of the resignation of the Ministry, and before a new one was constituted. The supporters of the late Ministry inside and outside of Parliament made use of threatening language respecting the Senate's proceedings, and some slight disturbance of order took place in connection with a public manifestation in Paris against the action of that Assembly.

17. A Moderate Republican Ministry, under the presidency of M. Méline, was quickly formed, and presented itself on the 30th April, to the Chamber, which then

passed a resolution by a majority of 34 affirming the sovereignty of universal suffrage, and approving the declaration of the new Government. In the debate which took place on this occasion M. Bourgeois intervened, and explained in full the course of events which had forced his Cabinet to resign. He pointed out that when a Government and the Senate were united against a majority in the Chamber, they had always the possibility of bringing about a dissolution. But this was not the case when a Government and the Chamber found themselves in opposition to the Senate. In the latter case, he asked, what resource had the Chamber? He denied that the Senate had a right to overthrow a Ministry supported by a majority in the Chamber. The Senate had only the right of examination and appeal; it could not have the right of substituting its policy for that of the Chamber by overthrowing the Ministry which represented that policy. The recent struggle was not merely one between the Senate and a Ministry; it was a conflict on a fundamental question between the two Chambers, and he declared that the question of the rights and attributes of the Senate was now definitely raised.

18. After, however, the crisis above described was ended by the appointment of a new Ministry, the question of the constitutional rights of the Senate was not pressed to an issue, and since that date no similar conflict involving the relations of the two Chambers has arisen. The reason usually ascribed to the absence of disputes between them is that the political composition of the Senate has tended during recent years to become more and more similar to that of the Chamber of Deputies.

GEORGE GRAHAME.

HESSE DARMSTADT AND BADEN.

No. 6.

Mr. Harford to Sir Edward Grey.—(Received October 28.)

DARMSTADT, October 20, 1907.

SIR,—With reference to the Foreign Office Circular of the 10th July, I have the honour to inclose reports, as requested, on the composition and functions of the Upper Chamber in the Grand Duchies of Hesse and Baden.

In both these States, the Upper Chamber is styled the First Chamber in the constitution on which each is respectively based.

As the constitutional struggles which have taken place in South Germany during recent years for electoral reforms are so closely connected with the revision of the powers and composition of the Upper Chambers in those States, some allusion to this subject was hardly to be avoided. Everywhere, except in Hesse, more Liberal ideas have triumphed, and the system of election to the Diet or Landtag is now, with that one exception, everywhere closely assimilated to the system for election to the Reichstag.

The three Bills now before the Hessian Chambers form the third attempt in recent years to revise the constitution on the lines of the reforms already adopted by Baden, Bavaria and Würtemburg.

I have, etc.,

FREDERIC D. HARFORD.

Inclosure in No. 6.

REPORT ON THE GRAND DUCHY OF HESSE DARMSTADT.

Upper Chamber based on the Constitution of 1820.

The present composition and functions of the Upper or First Chamber in the Grand Duchy of Hesse are defined by the constitution of the Grand Duchy of Hesse promulgated on the 17th December, 1820, and by the Hessian Electoral law of the 8th November, 1872, and the law of the 17th June, 1875, governing the procedure of the Hessian diet, but, speaking generally, the British parliamentary system is the basis of the relations of the Upper and Lower Chambers.

Bill to revise Constitution before the Diet.

A Bill was introduced by the Government into the Hessian Diet on the 29th April, 1907, to alter the electoral system in conjunction with an alteration of certain prescriptions of the Constitution. On two former occasions, as, for example, in 1905, Bills have been introduced for a reform of the electoral system, but were not adopted owing to divergencies of opinion between both Chambers as to their existing constitutional rights in enacting laws and in fixing the Budget. Otherwise no important differences of opinion, especially as regards constitutional questions, have so far arisen between the two chambers.

Bill proposes to increase Powers of Upper Chamber.

The Government proposals of the 29th April, 1907, alluded to above, comprise the following three Bills: Bill (1) proposes alterations in articles 67 and 75 of the constitution, with a view, firstly, to allowing the Upper Chamber to discuss the Budget independently, and to accept or reject it *en bloc,* or in detail; and secondly, that if one of the Chambers rejects a Bill, the Bill shall remain adjourned, and then if it is submitted by the Government to the next Diet, and is again rejected by one of the Chambers, but is adopted by one of the Chambers, the Government can summon both Chambers to discuss the measure jointly under the presidency of the President of the Upper Chamber, and if a two-thirds majority is obtained the Bill becomes law. In the case of a disagreement between the two Chambers on some single item included in the Budget law, the lower amount voted by either of the Chambers is considered as adopted. In case of a dispute over the whole Budget, the Government could convene a meeting of the two Chambers, and the absolute majority would decide.

New Elective Members proposed to be added to Upper Chamber.

Bill (2) proposes to add to the Upper House a representative of the Technical High School at Darmstadt, to be summoned by the Grand Duke on the proposal of the Council of that institution, and also two representatives of trade and industry, two representatives of agriculture, and one of handicraft, to be summoned by the Grand Duke on the proposal of the legally constituted bodies connected with those professions. These six new members would thus be added to the Upper Chamber by special elective process. (The existing Upper Chamber consists of thirty-four members.)

It is further proposed that if one of the mediatized families dies out the Grand Duke shall, on the recommendation of the heads of the existing mediatized families, appoint for life a member of one of those families, so that the vote may not be lost.

Electoral Reform: Basis of Compromise for conceding New Powers to Upper Chamber.

In the same Bill is found the compromise offered in return for the larger powers proposed to be given to the Upper Chamber, namely, that in place of the present system of indirect election to the Lower Chamber, by means of electing delegates who again elect the deputies, the system of direct election is to be substituted. The system of voting by secret ballot already exists.

Lower Chamber to be increased by eight Members.

Bill (3) is namely a Redistribution Bill, and proposes to add eight members to the Lower Chamber, which now consists of fifty members. Of the eight new members five would be members for town constituencies, and three for country constituencies.

These three Bills are being studied by committees of the two Chambers, and as a large part of next year's spring session will be taken up in discussing the Budget, the time available during the spring and autumn sessions of 1908, for adequate discussion of so important and thorny a subject, is barely sufficient to allow of an agreement between the two Chambers being reached by the latter part of 1908, that is to say, before the close of the present Diet, unless some mutual concessions are made. The result would be that the attempted revision of the Hessian constitution would once again have proved abortive.

Present Composition of Upper Chamber.

In the Grand Duchy of Hesse the Upper or First Chamber, as it is called, is at present composed:—

1. Of the Princes of the Grand Ducal House.
2. Of the heads of mediatized families who own one or more entailed estates in the Grand Duchy.
3. Of the head of the Baron von Riedesel family.
4. Of the Catholic Bishop of the State, or, in case of impediment, of a Catholic priest named by the bishop with the consent of the Grand Duke for the duration of the Diet.
5. Of a Protestant clergyman, named by the Grand Duke for life with the rank of a prelate. In case of a vacancy or of any impediment, the Grand Duke can name another Protestant clergyman in his place for the duration of the Diet.
6. Of the Chancellor of the University of Giessen, or, if his place is vacant or in case of impediment, a member of the Academical Senate of the University named by the Grand Duke for the duration of the Diet.
7. Of two members of the nobility elected by members of the domiciled nobility who own sufficient real estate to be entitled to vote. They are elected for six years.
8. Of distinguished Burgers of the State, who may be summoned for life by the Grand Duke, not exceeding twelve.

Members cannot Vote in Elections.

Members of the Upper Chamber cannot exercise the suffrage, and must have completed their 25th year before they can exercise their privileges, and then only if no rights of the State stand in the way, and they cannot be elected to the Lower or Second Chamber, as it is styled in Hesse, nor can they vote in elections for the Lower Chamber.

President appointed by the Grand Duke.

The President of the Upper Chamber is appointed by the Grand Duke for the duration of the Diet; the Upper Chamber then elects its second and third presidents and two secretaries.

Number which constitutes quorum.

At least twelve members must vote in the Upper Chamber to validate a vote, but if this quorum is not present the vote is considered as carried; but this is not allowed in the case of a proposal to revise the constitution.

Majority needed to revise Constitution.

Alterations and additions to the constitution can only take place with the consent of both Chambers, and for this purpose at least twelve of the Upper Chamber must vote in favour of any such change; but if the number of members taking part in the voting is so large that two-thirds of this number exceeds twelve, then two-thirds majority is necessary.

Budget proposals first submitted to Lower Chamber.

Article 67 of the constitution lays down that the Budget law must be first submitted to the Lower Chamber, which arrives at its decision after a previous confidential discussion with the Upper Chamber by means of the Finance Committees. The Upper Chamber can only accept or reject the financial proposals of the Lower Chamber *en bloc*. If the Upper Chamber rejects the proposals the Budget Bill is discussed in a sitting of both Chambers together, under the presidency of the President of the Upper Chamber, and a decision is taken by the absolute majority.

Introduction of Bills.

Government Bills are submitted to the Chambers or to that which has to deliberate on them, either by members of the Ministries or by special Commissioners of the Diet, or in writing; but every member of the Diet, and therefore of the Upper Chamber, has the right to bring forward motions or interpellations in the Chamber to which he belongs. Bills must be presented by at least ten members.

Rejected Bills.

Proposals which have been rejected by either Chamber, whether emanating from the other Chamber or from a member of the Chamber itself, cannot be reintroduced during the duration of the same Diet.

Appointment of Committees.

Each Chamber elects four permanent committees, one of which deals with the budget, the public debt, and other financial proposals, but other special committees can be appointed by either Chamber.

Report on the Grand Duchy of Baden.

Upper Chamber based on Constitution of 1818, as revised in 1904.

The constitution of the Grand Duchy of Baden promulgated on the 22nd August, 1818, was considerably modified by the Baden law of the 24th August, 1904, on which date a new electoral law was promulgated, which also defines the manner in which the elective members of the Upper Chamber (called the First Chamber) are to be elected, as well as those of the Lower or Second Chamber. These measures marked the termination of a long struggle for the direct as opposed to the indirect system of voting, which still obtains in the Grand Duchy of Hesse. Similar measures of electoral reform have also been adopted in Bavaria and Würtemberg in recent years. No constitutional disputes have, however, arisen between the two Chambers of the Baden Diet during the past ten years.

Composition of Upper Chamber.

Under the revised Baden constitution the Upper Chamber consists of:—

1. The Princes of the Grand Ducal House.
2. The heads of the mediatized families who own estates in Baden on attaining the age of 21.
3. The Catholic Bishop and Evangelical Prelate.
4. Eight members elected by the landed nobility.
5. A representative for each of the Universities of Heidelberg and Freiburg, and for the Karlsruhe Technical High School.
6. Six representatives elected by legally organized corporations, namely, three by the Chambers of Commerce, two by the Chamber of Agriculture, and one by the Chambers of Handicraftsmen.
7. Two mayors of the larger cities, a mayor of one of the smaller towns, but exceeding 3,000 inhabitants, and a member of a District Council.
8. Members appointed by the Grand Duke. Of those two must be high judicial authorities, while for the others (not exceeding six) there is no restriction as regards profession or birth.

At the time of the revision of 1904 there were forty members of the Upper Chamber, of whom twenty-one were elected.

Grand Duke can create new Hereditary Members.

The Grand Duke can create as hereditary members of the Upper Chamber the heads of noble families who own real estates and a family seat in Baden of the net value of 50,000*l.*, but if the qualification ceases to exist, the right to the hereditary seat in the Upper Chamber ceases also.

Guardian or Relative can Vote on behalf of Minors or Absentees.

The guardian of a minor or lunatic mediatized member of the Chamber can, if he is a relative, sit in his place in the Chamber, and if the head of a mediatized family is unable for other reasons than the above to attend a session he can nominate a relative in his place for that period.

Duration of Appointment of Elective Members.

The two high judicial authorities are appointed for the duration of their office, the other members appointed by the Grand Duke, and the other elective members hold office for the duration of the Diet, that is, for four years.

A Member cannot sit in both Chambers.

A member of the Lower Chamber cannot enter the Upper Chamber, and if a member of the Upper Chamber accepts election to the Lower Chamber he ceases to belong to the Upper Chamber.

Validity of Elections decided by the Chamber concerned.

Each Chamber decides as to the validity of its own elections.

Appointment of President.

The Grand Duke appoints the President of the Upper Chamber.

SESSIONAL PAPER No. 246

Measures which must first be submitted to Lower Chamber.

Article 60 of the constitution, as amended by the law of the 24th August, 1904, thus defines the Bills or measures which must first be submitted to the Lower Chamber in Baden:—

The following Bills are presented first to the Lower Chamber:—

"1. Reports as to Budget revenue or expenditure, and comparative statements showing Budget Estimates and actual receipts.

"2. Bills which deal with permanent arrangements respecting the administration of the State revenue and expenditure, or with direct or indirect taxation.

"3. The Finance Bill, together with the Budget Estimates, as well as other Bills fixing taxation for a Budget period, or for the sale, mortgage, or application of the State property or domains, the contracting of loans, the acceptance of State citizenship, or other State obligations of a similar nature."

Procedure followed in dealing with Finance Bills, etc.

The procedure to be followed in the case of the above three categories is thus laid down in article 61 of the constitution, as amended by the law of the 24th August, 1904:—

"1. The measures described in section 1 of article 60 are discussed in the Upper Chamber after the Lower Chamber has voted them.

"2. The Bills described in sections 2 and 3 of article 60 are only voted on in the Upper Chamber after they have been adopted by the Lower Chamber, without prejudice to the right of the Upper Chamber to vote on the different items of the Budget proposals separately, as soon as they have been voted by the Lower Chamber.

"3. If the votes of the Upper Chamber with respect to the various items of the Budget Estimates differ from those of the Lower Chamber, and if after the repeated votes of both Chambers, and a previous attempt to arrive at an understanding in accordance with article 75, section 2, a compromise of the differences cannot be arrived at, these items will be inserted in the Budget proposals annexed to the Finance Bill in the form decided on by the Lower Chamber at its final vote.

"4. If the Upper Chamber rejects altogether a Bill of the nature described in article 60, section 3 which has been adopted by the Lower Chamber, then, at the request of the Government or of the Lower Chamber, a vote will be taken in the matter on account of the total votes given in both Chambers, whether the Bill is to be adopted in the form proposed by the Lower Chamber."

Quorum needed for passing Finance Bills, &c.

In subsequent articles 71, 72, and 74 of the constitution, it is explained that a quorum of both Chambers must vote in such cases, and that if the number of votes for and against are equal, the President of the Lower Chamber has a casting vote, in other words, his vote counts twice.

Majority needed to change Constitution.

Article 64 of the constitution declares that no law amplifying, defining, or altering the constitution can be adopted except by a majority of two-thirds of the members of the Diet who may be present at each of the two Chambers. In article 73 it is added that three-quarters of the members of both Chambers must take part in the vote.

And in cases affecting freedom of Persons.

Article 65 declares that the vote of the absolute majority of each of the two Chambers is necessary in all new laws of the country which affect the freedom of the person or the property of subjects of the State generally, or alter or define existing laws of that nature.

Right to initiate Legislation.

Article 65A declares that either Chamber, as well as the Grand Duke, has the right to initiate legislation.

Power to Appeal to the Grand Duke.

Article 67 empowers the Upper Chamber to address a complaint to the Grand Duke in case of any prejudice to its constitutional rights, but complaints respecting other constitutional rights can only be dealt with by the Lower Chamber. Representations to the Grand Duke on other matters may be made by either Chamber, jointly or separately. A request for the introduction of a Bill may be only addressed to the Grand Duke by a Chamber, if the request has been previously communicated to the other Chamber, and the latter has had an opportunity of expressing an opinion thereon.

Rejection of Bills.

Bills can be accepted or rejected by either Chamber, and a Bill or proposal introduced from one Chamber to the other can be returned to the other Chamber with amendments.

Quorum needed in Upper Chamber.

The Upper Chamber requires fifteen members present to constitute a quorum.

Committees of both Chambers can confer together in case of Disagreement.

Article 75, section 2, stipulates that if the votes of both Chambers differ from one another, a meeting of the committees of both Chambers may take place with a view to arriving at an understanding on the initiative of either Chamber by the intermediary of the president. Each Chamber restricts itself in its relation to the other to the mutual communication of their votes.

Ministers can attend all Sittings.

The Ministers and certain other officials have access to all public and private sittings of the Chambers, and must be heard when they desire it.

HUNGARY.

No. 7.

Consul-General Clarke to Sir E. Goschen.—(Received at Foreign Office, August 31.)

BUDA-PESTH, August 27, 1907.

SIR,—I have the honour to inclose herewith a report which I have drawn up on the composition, functions, etc., of the Hungarian Second or Upper Chamber (House of Magnates).

I have, etc.,

F. S. CLARKE.

Inclosure in No. 7.

REPORT ON THE HUNGARIAN SECOND OR UPPER CHAMBER (HOUSE OF MAGNATES).

The Hungarian Upper Chamber or House of Magnates, was reorganized in the year 1885. It is now composed:—

(*a.*) Of hereditary members;
(*b.*) Of members who sit by right of office or dignity;
(*c.*) Of those who sit by right of Royal appointment; and
(*d.*) Of those who sit by virtue of election.

The hereditary members are the Archdukes of the reigning House (who have attained their majority); the male members of Hungarian families having the title of Prince, Count, or Baron who are 24 years old, who enjoy the rights of majority, and who are the usufructuary possessors (by themselves, or in conjunction with their wives or their legitimate children living under their roof) of landed property within the territory of the Hungarian state, paying, in accordance with the cadastral survey of 1885, an annual tax of at least 6,000 crowns (£250), such tax including that levied on dwelling-houses, farm buildings, etc.

Persons on whom new titles are conferred only have the right to sit in the Upper House if the King specially grants them such privilege. The members who sit by right of office or dignity are:—

1. The Bannerets of the Crown ("Regni Barones"), the Count of Pressburg,[1] the two custodians of the Crown, the Governor of Fiume, the Presidents and Vice-Presidents of the High Court of Justice and of the High Court of Administrative Matters respectively, and the President of the Buda-Pesth Court of Appeal.

2. The Hungarian Prelates of the Roman Catholic Church (Latin and Greek rites), that is, the Primate, the Archbishops, the Diocesan Bishops, the two consecrated Bishops of Nandor-Fejérár and Tinnin (appointed by the King), the Grand Abbott of Pannonhalma, the Provost of Taszo, and the Prior of Aurania.

3. The Prelates of the Greek Orthodox Church—that is, the Servian Patriarch and the Roumanian Metropolitan, as well as their Suffragan Bishops.

4. The three Bishops (who have held office longest) and three lay dignitaries of the two Protestant Evangelical Churches, and the senior Head. Bishop, or layman of the Unitarian Church.

The members who sit by right of Royal appointment are the life members, whose number cannot exceed fifty, and more than five of whom cannot be appointed by the King in one and the same year. The members who sit by virtue of election are the representatives of former members of the House of Magnates excluded in consequence of the reorganization effected in 1885. The number of these representatives, which was originally fifty, is gradually decreasing, the vacancies as they occur not being filled up. The Diet of Croatia-Slavonia also sends three delegates to the House of Magnates.

The right to sit in the Upper Chamber is not affected by the fact that a member thereof is serving in the army or is fulfilling ecclesiastical or civil duties. Exceptions to this rule are, however, made in the cases of the president and of the functionaries of the Court of Accounts. Naturalized Hungarian citizens can only become members of the House of Magnates ten years after naturalization. The members of the Upper House lose their right to sit:—

[1] A dignity hereditary in the Pálffy family.

1. If, sitting there in virtue of office or dignity, they cease to fill such office or such dignity.

2. If, having been appointed, or elected, they resign.

3. If, being the delegates of Croatia-Salvonia, their mandates have expired.

4. If they have been condemned by a regular tribunal to prison or banishment for a crime or for an offence committed for "lucre."

5. If they lose their Hungarian nationality.

The right to sit may, in some instances, be not altogether lost, but only temporarily suspended. Such is the case in condemnations involving suspension of political rights, in cases of bankruptcy, and in those of being placed under guardianship ("sous curatelle."). In this last case, however, exception is made when "spendthrift habits" or "absence abroad" has led to the restrictive measure in question. Hereditary members, again, who cannot comply with the necessary conditions as to payment of taxes have their rights suspended from the time of the expiration of the session during which the non-compliance took place. A magnate may be elected as a deputy, losing, while representing an electorate, his right to sit in the Upper House.

Cabinet Ministers have seats in both Houses of Parliament, and may therefore make declarations in either Chamber. They can, however, only vote in the Upper Chamber if they are members thereof and are not deputies. Cabinet Ministers may be represented at sittings of the House of Magnates by proxies (usually by their Parliamentary Under-Secretaries of State) if notice thereof is given beforehand to the President of the House.

The two Houses of Parliament hold their sittings separately, communicating to each other in writing the resolutions come to. The members of the House of Magnates (like the deputies) have the right of immunity. The resolutions come to in the Upper House are only valid if at least fifty members have been present. (In the Lower Chamber the number of deputies must be at least 100.) The initiative with regard to legislation belongs to both Houses, but by the Law of Reorganization (1885) the custom by which Bills are always first introduced into the Chamber of Deputies remains in force for the present. Bills rejected by the Lower Chamber cannot be again discussed by that Chamber during the same session, but Bills thrown out by the Upper Chamber can again form the subject of debate in the Lower Chamber, and can again be sent up to the House of Magnates. Although the members of the two chambers do not meet together for the adoption of legislative measures, they do so for the election of a Palatine or of a Custodian of the Crown ("Kronhüter"), and it is before such common assembly and in the presence of His Majesty the King that the dignitaries elected have to take the oath of fealty. The opening and closing of Parliament, as well as the act of coronation itself, have all to take place in the presence of the members of both Houses.

Functions of the House of Magnates.

The functions of this House are of a legislative character. All Bills, including those referring to financial matters, such as budgets, loans, etc., must, after passing the Lower Chamber, be submitted to the Upper Chamber. When voted, the Bills are laid before the King for the Royal sanction.

The functions of the House of Magnates are also of a judicial character, and extend over certain disciplinary matters with regard to higher judicial functionaries, such as the Presidents and Vice-Presidents of the Courts of Appeal, the President, Vice-President, and Judges of the High Court of Justice, and the Crown Attorney-General ("Kronanwalt"). The tribunal before which these functionaries are tried

consists of thirty-six members, half of whom are elected by the House of Magnates (from amongst its members) and half of whom are composed of the Vice-Presidents and Judges of the High Court of Justice. Only twelve (exclusive of the president) of these members form the tribunal.

A law passed in 1896 for the formation of a High Court for administrative Affairs ("Verwaltungsgerichtshof") prescribes that, in cases of disciplinary matters (in which the judges of that court are concerned), the tribunal before which the trial takes place has to be composed of twenty-four members, half of whom are magnates and half are judges of the Court of Administrative Affairs. Eight members of this tribunal (exclusive of the president) have to sit at the hearing of a case.

Although the impeachment of Cabinet Ministers has to be voted by the Chamber of Deputies, yet the tribunal before which such Ministers must appear is composed solely of members of the Upper House. This latter House elects for the purpose (by secret ballot) thirty-six magnates, twelve of whom can be challenged by the Commissioners (charged by the Chamber of Deputies with the conduct of the proceedings) and twelve by the Ministers impeached. The remaining twelve then constitute the Tribunal.

The control of the public finances is vested in the Chief Accountant's Office ("Staatsrechnungshof"), which has almost complete independence of action. The different departments of State have annually to submit to it their accounts accompanied by vouchers. In the event of there being objections to any items of expenditure, the Office sends an inquiry paper to the Minister concerned. The final accounts are every year laid before both Houses of Parliament, and Ministers can be asked for explanations, and can be made responsible in either Chamber for defraudation or for illegal use of moneys. (The impeachment of Ministers can, however, as already stated, only be voted by the Chamber of Deputies).

During the last ten years no constitutional disputes have arisen in Hungary between the two Houses of Parliament.

F. S. CLARKE

BUDA-PESTH, August 27, 1907.

ITALY

No. 8.

Mr. des Graz to Sir Edward Grey.—(Received August 9).

ROME, August 6, 1907.

SIR,—In accordance with the instructions contained in your Circular despatch of the 10th ultimo, I have the honour to transmit herewith a report on the composition and functions of the Italian Senate.

I have, etc.,

C. DES GRAZ.

Inclosure in No. 8.

REPORT ON THE COMPOSITION AND FUNCTIONS OF THE ITALIAN SENATE.

The Constitution.

The "Statuto," or constitution, granted by King Charles Albert of Sardinia to his subjects in 1848 was gradually extended to the other parts of Italy, and is now the constitution of the whole kingdom.

Composition of the Senate.

The Senate is composed of members appointed for life by the King on the proposition of his Ministers. The number of Senators is not limited. They must be over 40 years of age, and must belong to one or other of twenty-one categories enumerated in the "statuto":—

1. Archbishops and Bishops. No Senators have been appointed under this category since 1866.

2. The President of the Chamber of Deputies.

3. Deputies after three Parliaments or six years discharge of their duties. Parliament is elected for a period of five years.

4. Persons having the rank of Minister of State.

5. Ministers-Secretaries of State.

6. Ambassadors.

7. Envoys Extraordinary after three years' service.

8. The President of the Supreme Court of Justice and the presidents of its several divisions.

The President of the Court of Audit of State Accounts ("Camera dei Conti") and the Presidents of its various sections.

The President of the Council of State and the presidents of its several Departments are now also included in this category.

9. The Presidents of the Courts of Appeal.

10. The Advocate-General and the Crown Prosecutor of the Supreme Court of Justice after five years' service.

11. The Presidents of the divisions of the Courts of Appeal after three years' service.

12. Councillors of the Supreme Court of Justice and of the Court of Audit after five years' service.

13. The Advocates-General and Prosecutors-General of the Courts of Appeal after five years' service.

14. General officers of the army and navy. Major-Generals and Rear-Admirals must have had five years' active service in that rank.

15. Councillors of State of five years' standing.

16. Members of the Councils of the Provinces after their third election as President of their Council.

17. Intendants-General. This is now interpreted to mean prefects and ex-prefects.

18. Members of the Royal Academy of Sciences after seven years' membership. This qualification now applies equally to seven other distinguished scientific and literary societies throughout the kingdom.

19. Ordinary members of the Superior Council of Education after seven years' service.

20. Persons who by their eminent services or merits have added to the country's fame.

21. Persons who have for the last three years paid a sum equivalent to £120 in direct taxes in respect of their property or in income tax.

Princes of the Royal Family are senators by right, they enter the Senate at 21 and have the right to vote at 25 years of age.

The Presidents and four Vice-Presidents of the Senate are nominated by the King on the recommendation of his Ministers.

The number of Senators in March, 1907, was 341.

By the Constitution the Senate has the sole right of judging the validity of the qualifications for admission to that body. The nominations are referred to a special permanent committee of the Senate. There have been several cases in which the Senate has rejected a decree of nomination, which in consequence became inoperative.

Legislative Functions of the Senate.

According to article 3 of the constitution, the legislative power shall be collectively exercised by the King (represented by his Ministers) and the two Chambers—the Senate and the Chamber of Deputies.[1]

The two Chambers have an equal right to approve, amend, or reject Bills. When a Bill, introduced in one Chamber, is amended by the other, the Bill with the amendments is submitted afresh to the Chamber in which it was originally presented. It then returns to the amending Chamber, and this procedure is repeated when there are differences of opinion between the two houses until an agreement is reached.

There have been differences of opinion between the two Chambers, but they have never yet resulted in a conflict.

There is no provision in the "statutes" for the settlement of disputes between the Chambers.

Control of the Senate over Public Finances.

The pre-eminence of the Chamber of Deputies in the control of the public finances is recognized in article 10 of the constitution, which reads as follows:—

> "The right of proposing laws shall belong to the King or to either Chamber, but any law for the imposition of taxation or the approval of the Budgets and State accounts shall be presented first in the Chamber of Deputies."

The exact interpretation of this article, and the precise nature of the Senate's rights in dealing with financial Bills, has given rise at different times to numerous discussions, and to the expression of widely differing views in both Houses.

Whilst maintaining, subject to the limitations of article 10, its constitutional rights to amend or reject the above measures, the Senate has in practice shown great tact and moderation by making the most sparing use of those rights.

Judicial Functions of the Senate.

The Senate is invested with judicial functions in the three following cases, when it constitutes itself into a High Court of Justice:—

> Firstly, to judge of crimes and offences of which its members are accused, Senators as Supreme Judges of the State not being subject to the ordinary courts;
>
> Secondly, to judge Ministers accused by the Chamber of Deputies and brought before the Senate for trial; and
>
> Thirdly, to judge persons accused of acts of high treason and of attempts against the safety of the State.

When exercising its judicial functions, the Senate cannot concurrently exercise its legislative functions.

ROME, August 5, 1907.

[1] To become law, every Bill has to pass both Houses, and then to obtain the Royal sanction.

NETHERLANDS.

No. 9.

Sir H. Howard to Sir Edward Grey.—(Received August 6.)

THE HAGUE, July 29, 1907.

SIR,—In obedience to the instructions conveyed in your Circular despatch of the 10th instant, I have the honour to transmit herewith a report by Lord Acton upon the composition, powers, and functions of the Upper or First Chamber of the Netherland States-General, and upon its relations with the Lower or Second Chamber.

I have, &c.,

HENRY HOWARD.

Inclosure in No. 9.

REPORT BY LORD ACTON ON THE COMPOSITION AND FUNCTIONS OF THE NETHERLAND FIRST CHAMBER.

General Remarks.

The Netherland Upper House or First Chamber, in accordance, perhaps, with the spirit of Netherland history, is modelled on lines republican rather than monarchical, and bears a strong outward resemblance to the senatorial bodies of the great democracies. It is formed by process of indirect election, none of its members, with the exception of the President *(vide infra)*,[1] being appointed by the Crown. Its powers are more limited than those of the House of Lords, in that it possesses no power of amendment, nor any initiative faculty in respect of Bills proper. The prevailing tendency, however, as explained below, is to increase the powers of the Upper House by granting to it the right of amendment, and to democratize its composition by abolishing the present restrictive qualifications.

Parliamentary procedure.

According to the terms of the constitution the Legislature or States-General represent the entire Dutch nation. They are composed of a First and a Second Chamber. The legislative power is exercised jointly by the Queen and the States-General. Parliamentary procedure and the distribution of legislative power are as follows:—

The Queen submits Bills to the States-General, and also any other proposals which she may consider necessary. She has the right either to approve or to reject measures which have been adopted by the States-General. The Sovereign, on the advice of the Ministers of the Crown, sends all legislative projects to the Second (Lower) Chamber. If the latter decide to approve the measure, whether amended or unaltered, they send it up to the First Chamber. If, on the other hand, the Second Chamber decide against the adoption of the Bill, they address a request to the Queen that she should again give the matter her earnest consideration.

Powers of First Chamber.

The First Chamber deliberate upon measures in the form in which they are passed by the Second Chamber, and they communicate their decisions both to the

[1] The President is appointed from among the Members.

Queen and to the Second Chamber. Pending the decision of the First Chamber in regard to a Bill, the Sovereign retains the power to withdraw the Bill submitted by her. The States-General have the right to submit Bills to the Queen; the right of initiative can, however, alone be exercised by the Second Chamber, which sends the Bill when passed to the First Chamber, and has the power to intrust one or more of its members with the duty of defending the Bill, either verbally or in writing, in the First Chamber. If the First Chamber approve the measure, they apply for the Sovereign's sanction and inform the Second Chamber accordingly; if they fail to pass the Bill, they return it to the Second Chamber with an intimation that they have not found sufficient reason for applying for the Sovereign's assent. Proposals other than Bills proper may be submitted independently to the Crown by either Chamber. Both Chambers, whether sitting in separate or united session, possess the right of "enquête" and of appointing commissions of members, with power to take evidence. The Second Chamber has the power to amend, as have also the States-General, when sitting as one Chamber.

Provisions common to both Chambers.

A member of one Chamber cannot also be a member of the other Chamber. The heads of ministerial departments (Ministers) have the right to sit in both Chambers, but they only possess advisory powers, unless they have been elected private members of the Assembly in which they sit. Members of the Chambers cannot be prosecuted for anything said by them in debate or for any written communication made by them in the Chamber.

The Sovereign has the right to dissolve the Chambers of the States-General either separately or simultaneously.

Constitution of First Chamber.

The First Chamber consists of fifty members elected by the Provincial States *(vide infra)*. The qualifications for eligibility for the First Chamber are that the candidate should be of Dutch nationality and of thirty years complete; that he shall not have lost control or possession of his property, nor have been otherwise disqualified for election by sentence of a Court of Justice; and, further, that he either is included in the category of those who are assessed the highest for direct taxation, or that he holds or has held one or more of the high public offices specified in the law of the 12th August, 1890 (see Appendix). Members are elected for nine years, one-third retiring every three years, and the retiring members being eligible for immediate re-election. (When this rule was first adopted one-third of the House were elected for three years, one-third for six years, and one-third for nine years. This procedure is also observed after a dissolution).[1] In the event of a vacancy occurring by death or otherwise, the new member is only elected for the period still unexhausted by the late member. Joint sittings of both Houses take place at the commencement and close of the session and on the demise of the Crown.

Mode of Election to First Chamber.

In every province of the kingdom there sits an Assembly termed Provincial States, which is elected on the same franchise as the Second Chamber of the States General, and the members of which elect the members of the First Chamber.

Constitutional and Dynastic changes.

Any proposal for a change in the constitution is embodied in a Bill, upon the passage of which both Chambers are dissolved. The newly-elected Chambers proceed to examine the modifications proposed, but the measure cannot become law unless it

[1] The Second Chamber is elected for four years.

has been passed by a majority of two-thirds of the newly-elected members. In the case of a proposal for a revision of the constitution in regard to the dynasty a dissolution takes place, the new Chambers, elected *ad hoc*, being composed of double the normal number of members, i.e., each constituency or electoral college electing two members to every one elected under ordinary conditions.

State of Parties.

The present (Liberal) Government have a majority of two votes in the Second Chamber, while in the First Chamber they are in a minority of twelve (July, 1907.)

Disagreement between two Chambers.

Several examples have occurred in recent years of Ministerial crises brought about by the action of the Upper Chamber in rejecting Government measures after their passage through the Lower House. In February last the Army Estimates were rejected by the First Chamber. The Government thereupon proffered their resignations, and after several months' negotiation these were withdrawn, the Minister of War alone retiring. The Army Estimates, subject to certain alterations, were subsequently reintroduced and adopted by both Chambers, but the reduction proposals, which had caused their former rejection by the First Chamber, were reserved for embodiment in a special Bill to be brought in by the new Minister of War in the coming autumn session. This incident, which is still pending, while illustrative of the procedure adopted by the Government in a given case when confronted by defeat in the Upper Chamber, can scarcely be cited as an example of disagreement or conflict between the two Houses, since in the present instance, according to statements in the press, the original Government majority in the Lower Chamber was only consequent upon a Ministerial assurance that further explanations of the proposed reduction would be given at an early date.

A different solution of a similar crisis was resorted to by the former (Clerical) Premier, Dr. Kuyper, in July, 1904, upon the rejection of his University Bill by the First Chamber. On that occasion Dr. Kuyper advised the Queen to dissolve the Upper Chamber, and the ensuing elections resulted in a majority for the Right, and therefore in the desired victory for the then Government.

Proposals for increasing Efficiency of First Chamber.

As stated above, the First Chamber does not possess the right of amendment. A modification of the constitution in regard to this question was, however, included among the recommendations of a Royal Commission appointed in the autumn of 1905 to examine certain articles of the Fundamental Law (constitution) of the Netherlands with a view to their revision, and which issued its report at the commencement of the present year. The report observes that the denial of the right of amendment to the First Chamber places the latter in a dilemma, since it can only accept or reject a measure, and cannot pronounce itself in respect of any modifications which it may deem desirable to introduce into it. By the concession of the right of amendment, on the other hand, the danger is averted of the inclusion by the Government of several separate measures in one Bill, with the object of ensuring the passage of the whole through the Upper House. No doubt, proceeds the report, the acquisition by the First Chamber of the said right would result in an increase of its direct influence upon legislation; but, on the other hand, the very exercise of the new right may pave the way for an understanding between the two Chambers. According to the recommand-

ations of the commission, the procedure would be as follows: The First Chamber having amended a Bill, the President sends it back to the Second Chamber, which may only deliberate upon the amended clauses, but is unable to propose fresh amendments. In the event of the Scond Chamber approving the amendments, the Bill would be sent direct from that Chamber to the Sovereign to receive the Royal assent. Should the amendments be rejected, the Second Chamber will return the Bill to the First Chamber with whom the final decision will rest. The First Chamber will, however, not be granted the right of amendment in regard to Bills originating in the Second Chamber (*vide supra*) nor in respect of Money Bills (*cf.* England and Prussia). The report further recommends that the President of the First Chamber should be elected by the Chamber itself, as in the case of the President of the Second Chamber; and it proposes to abolish the qualifications required of candidates for election to the First Chamber, placing them on an equal footing with candidates for the Second Chamber in this respect.

Although the recommendations of this commission have not yet been submitted to the Legislature, and their adoption or rejection are therefore not questions of immediate constitutional interest, its proposals in regard to the First Chamber are nevertheless worthy of notice, as indicative of the trend of Dutch parliamentary opinion on this subject.

THE HAGUE, July 29, 1907.

APPENDIX.

Public offices specified in the Law of August 12, 1890.

President or member of one of the Chambers of the States-General.
Vice-President or member of the Council of State.
State-Counsellor in extraordinary service.
President or member of the General Audit-Chamber.
Director of the Cabinet of the Queen.
Cabinet Minister.
Envoy Extraordinary and Minister Plenipotentiary.
Minister-Resident.
Consul-General in Dutch service.
President, Vice-President, or member of the Supreme Council.
Solicitor-General and Attorney-General at the Supreme Court of Justice.
President, Vice-President, or member of a Court of Justice.
Solicitor-General or Attorney-General at a Court of Justice.
President or member of the Supreme Military Court of Justice.
Attorney-Fiscal for the Queen's army and navy.
Queen's Commissioner in a Province.
Member of the Provincial Governments.

Burgomaster of a commune which consists of more than 20,000 inhabitants, according to the last public census.

Curator of a State University.

Curator of the Municipal University of Amsterdam.

Professor at a State University or Professor at the Municipal University of Amsterdam.

Professor-Director or Professor at the Polytechnical School.

President and member of the Royal Academy of Sciences.

Lieutenant-Admiral, Vice-Admiral, Rear-Admiral, Naval Captain, General of Infantry, Lieutenant-General, Major-General, Colonel in the Netherland or Netherland East India army.

President of the Board of Mintage.
Chief Engineer-Adviser or Chief Engineer of Shipbuilding.
Chief Inspector, Inspector, or Chief Engineer of State Waterways, &c.
President of the Council of Supervision of Railway Services.
President of the Board Sea Fishery.
President of the Chamber of Commerce in a commune, or in a group of communes, which consists of more than 20,000 inhabitants, according to the last public census.
Governor-General of the Netherland East Indies.
Lieutenant-Governor-General of the Netherland East Indies.
Vice-President or member of the Council of the Netherland East Indies.
President or member of the General Audit-Chamber of the Netherland East Indies.
General Secretary to the Government in the Netherland East Indies .
Head of a Department of General Administration in the Netherland East Indies.
President, Vice-President or member of the Supreme Court of Justice of the Netherland East Indies.
Solicitor-General at the Supreme Court of Justice of the Netherland East Indies.
President, Vice-President, or member of the Supreme Military Court of Justice of the Netherland East Indies.
Attorney-Fiscal for the Army and Navy of the Netherland East Indies.
Governor of Celebes and Dependencies, of the West Coast of Sumatra or of Atjeh and Dependencies.
Resident of Batavia, Surabaya, Djokjokarta, Surakarta, or Samarang.
Governor of Surinam.
Governor of Curacao.
President of or Solicitor-General at the Court of Justice in Surinam.

NORWAY.

No. 10.

Sir A. Herbert to Sir Edward Grey.—(Received August 6.)

Christiania, July 31, 1907.

Sir,—I have received your Circular despatch of the 10th instant, instructing me to forward a report on the composition and functions of the Second or Upper Chamber of the Norwegian Parliament.

Strictly speaking, there is no Second Chamber in Norway, though in some respects the Lagthing fulfils the functions of such a Chamber in the Norwegian Storthing. I would rather apply the term of "revising committee" to the Lagthing. No special qualifications are required in order to sit in the Lagthing, the members of which are merely selected from among and by, the members of the Storthing, and do not sit in virtue of any independent right conferred either by the electorate, or by official appointment, or by hereditary privilege.

It would perhaps have been sufficient to say that there was no Upper Chamber in the Norwegian Parliament, but as the Lagthing acts as a revisory body in the Storthing, though its powers even as such are very limited, its decisions being liable to reversal when they are submitted to the whole Storthing, I have asked Mr. Dick, translator to His Majesty's Legation, to draw up a short report on the working of the Lagthing, which I now have the honour to inclose.

I have, etc.

(For Sir A. Herbert),

W. G. MAX MÜLLER.

Inclosure in No. 10.

Report on the Norwegian Upper Chamber.

In the Norwegian Parliament there is, strictly speaking, no Upper House, the entire legislative power is vested in a body of 123 representatives elected triennially to form the Storthing. The electors are, subject to certain very limited income qualifications, all Norwegians, both male and female, over 25 years of age. The suffrage was extended to women by a law passed last month, and will be exercised at the next election two years hence.

As soon as a newly-elected Storthing meets, the members proceed to elect one quarter of their number to form the Lagthing, the remaining three-quarters constituting the Odelsthing. A list of names is proposed by a "selection committee," but it is open to any member to suggest alterations in the same, the election being practically a party question.

The Lagthing, as thus constituted, remains unchanged during all the ordinary and extraordinary sessions of the same Storthing, except that vacancies are filled, by special elections, from among the members of the Storthing.

The Lagthing together with the Supreme Court of Justice, constitutes the Rigsret, the court before which members of the Government ("Statsraad") can be impeached.

Members of the Government cannot be elected to the Storthing; they may attend and take part in debates in either of its divisions, or when it sits as a whole, but have not the right of voting.

Every Bill, except such as regard finance, is discussed by the two divisions ("Things") separately. It must be introduced into the Odelsthing first, either by one of its members or by the Government, and if accepted, either with or without amendment of the original proposal, it is sent on to the Lagthing. This latter body either accepts it—in which case the Bill is laid before the King for sanction and becomes law—or returns it to the Odelsthing with suggestions for amendments. There proposed amendments are then considered by the Odelsthing. If accepted, the Bill is considered passed; if, on the contrary, the Odelsthing considers the suggestions of the Lagthing inadmissible, the Bill can be dropped, or it can again be sent to the Lagthing, with or without further alterations. Should the Lagthing again refuse to accept the Bill as sent to it from the Odelsthing, the whole Storthing sits as one House to vote on the proposed measure, and in this case it requires a two-thirds majority of all the members of the Storthing to enable the Bill to become law.

All Bills involving questions of finance, motions criticizing Government action, the naturalization of foreigners, concessions for works of public utility, come straight before the whole Storthing, and are decided by a bare majority of votes.

It will be seen from the above that the danger of "constitutional disputes" between the two divisions of the Norwegian Parliament does not exist, the constitution expressly providing a remedy in cases of disagreement.

PORTUGAL.

No. 11.

Mr. Beaumont to Sir Edward Grey.—(Received August 19.)

LISBON, August 9, 1907.

SIR,—With reference to your Circular despatch of the 10th ultimo, I have the honour to transmit herewith a report, prepared by Sir Somerville Head, on the composition and functions of the Upper Chamber in Portugal.

I have, etc.,

H. D. BEAUMONT.

Inclosure in No. 11.

REPORT BY SIR S. HEAD ON THE PORTUGUESE CHAMBER OF PEERS.

The constitutional charter of the Kingdom of Portugal, as granted in 1826 and re-established in 1842, made provision for the composition and functions of the House of Peers. Modifications have since been introduced by various acts of the Cortes.

The Chamber is now composed:—[1]

1. Of peers appointed by the King, the number of whom may not exceed ninety.

2. Of peers in their own right. These are:—

(*a*) The Princes of the blood Royal on attaining the age of 25;

(*b*) The Patriarch of Lisbon and the Archbishops and Bishops of the continental kingdom.

3. Hereditary Peers. The hereditary principle, which for some time prevailed, was restricted by laws passed in 1845 and in 1878, and provision was made for its gradual abolition by the law of the 24th July, 1885. Hereditary Peers now consist only of those who were already peers in July, 1885, and their immediate successors, if born before that date. On the death of the last of these hereditary peers the Chamber will consist entirely of life peers nominated by the Crown, and of the peers in their own right referred to above. The present King has consistently nominated peers recommended by the ministry in power at the time of a vacancy occurring, but there is nothing in the constitution to prevent the King from filling up vacancies in the Upper House without consulation with his ministers.

No person may be nominated a peer until he has reached the age of 40, and unless he has received a secondary education or is in possession of an annual income of 400,000 reis (£90).

The following functions pertain exclusively to the Chamber of Peers:—

1. Trial of offences committed by members of the Royal Family, Secretaries of State, Peers, and by Deputies while the Cortes is in session.

2. Investigation into the responsibility of Secretaries of State and certain other functionaries.

.3. Convocation of the Cortes on the death of the Sovereign for the appointment, if necessary, of a Regent.

The peers, as well as the deputies, are required to take an oath of allegiance to the King, Prince Royal, or Regent.

All purely legislative functions are common to both Chambers, including the control over the public finances, but the initiative of financial measures and of Bills for the recruitment of the army and navy rests solely with the Chamber of Deputies.

The duration of each Parliament is fixed at three years. The legal period for sessions is three months in each year, but provision is made for prolonging ordinary sessions and for calling extraordinary sessions.

The sittings of the Upper Chamber are public, except when reasons of State require that they should be secret; all questions are decided by an absolute majority of votes. The President and Vice-President of the Chamber are appointed by Royal decree.

Peers are inviolable for the opinions they express in the performance of their functions.

No person may be at the same time a member of the Upper and Lower Chamber, members of the Upper Chamber may be appointed Secretary of State or Councillor.

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[1] Up to 1896 the Chamber included fifty Peers elected by Electoral Colleges, forty-five of whom represented administrative districts and five of whom were returned by scientific establishments.

and may hold appointments as diplomatic representative, high commissioner of any colony, or court official. Ministers of the Crown sit and take part in the debates in both Chambers, but only vote in that Chamber of which they are members.

The Act of April, 1896, on which the present composition and functions of the Upper Chamber are principally based, also provides for the appointment of high Government officials as special delegates to take part in the Legislative Chambers in the discussion of particular Bills. The same Act further lays down that when one of the Legislative Chambers does not approve in whole or in part any Bill issuing from the other Chamber, or does not approve the amendments or additions made by the other Chamber to any Bill, a Committee of an equal number of peers and deputies shall be appointed, and, in accordance with the decision of the majority of the committee, the Bill shall either become law or shall be rejected. If there be an equality of votes on the Bill or on any of its articles, or on any amendments or additions, or if the committee can come to no agreement on the question submitted to them, either of the Chambers may petition the Crown for the reassembly of the Cortes with a special mandate to deal finally with the matter.

No constitutional disputes have arisen during the last ten years between the Upper and Lower Chambers.

PRUSSIA.

No. 12.

Count de Salis to Sir Edward Grey.—(Received August 6.)

BERLIN, July 31, 1907.

SIR,—In obedience to the instructions conveyed to me in your circular despatch of the 10th instant, I requested Lord Cranley to draw up a memorandum regarding the constitution and functions of the Upper House of Parliament in Prussia, copy of which I have the honour to inclose herewith.

I have, etc.,

J. DE SALIS.

Inclosure in No. 12.

MEMORANDUM BY LORD CRANLEY ON THE COMPOSITION AND FUNCTIONS OF THE PRUSSIAN UPPER HOUSES OF PARLIAMENT.

Short Historical Sketch of Events leading to the grant of a Constitution and the establishment of a Parliament.

The Prussian Herrenhaus is largely based on the constitution of the former provincial estates, and in order therefore to fully comprehend the complicated nature of its construction it is necessary to give a short sketch of the constitutional history of the country which lead to the grant of the constitution of 1850.

Until the year 1848 Prussia was an absolute monarchy governed in conjunction with the estates of the realm. The development of the estates was regulated by the conditions of the time prevailing in the Empire. Their power gradually increased. Under Joachim II scarcely anything could be done without their consent, and without them no tax could be levied or altered. The Great Elector curtailed their influence, and gathered gradually all power into his own hands. In this policy he was followed by his successor, and in 1727 Frederick William I was able to declare that the privileges of the estates were "antiquated and long-forgotten." Prussia thus

became an absolute monarchy. During the Napoleonic wars ideas of freedom and constitutional representation permeated into Germany from France. The first official pronouncement regarding national representation in Prussia was the edict of Frederick William III of the 27th October, 1810, in which the King declared himself willing to grant a system of representation both for the provinces and for the whole country.

At the Congress of Vienna, 22nd May, 1815, the King announced his intention of granting a constitution to Prussia, and a scheme for a Parliament was laid down. This scheme for national representation, which was based on a united Assembly drawn from representatives of the provincial estates, came to nothing, and during the whole of the remainder of the reign of Frederick William III the tendency of the policy of the Government was much more towards reaction than towards constitutional freedom. In 1840 Frederick William III died, and was succeeded by his son Frederick William IV. At the outset of the reign a more liberal regime was confidently expected, but it soon became clear that, although the King wished to rule in a more enlightened fashion than his father, he did not intend to abate any of his claims to govern by divine right, or to divest himself of his father's absolute power. The agitation for constitutional reform grew in strength during the first seven years of the reign, and in 1847 the King summoned a Diet, composed of representatives of the provincial estates, consisting of two Houses. The Upper House was formed of the princes, counts, and lords who possessed votes in the provincial Diets, and numbered eighty members. This concession, however, did not suffice to allay the agitation. Disturbances took place in Berlin on the 18th and 19th March, 1848, and it became clear to the King that it was no longer possible to combat the popular demand. Frederick William therefore gave way completely. He declared that he would place himself at the head of the popular movement, changed his Ministry, and commanded the Diet to pass an electoral law to enable a constituent assembly to be chosen. The Diet was then abolished, and the constituent Assembly began to discuss the new constitution. The Assembly met in May, 1848, but their debates came to nothing. On the 5th December the King dissolved the Assembly and published a constitution which had not been laid before the Chamber. This constitution provided for two Houses, the members of the Upper House being elected by all Prussians over 30 years of age who paid at least 8 thalers in direct taxation yearly, or who possessed real property to the amount of 5,000 thalers. This is the first measure which really admitted Prussia to the rank of a constitutional State, since thereby the King by his own prerogative abrogated his absolute power, and was only enabled to make or repeal laws in accordance with the limits of the constitution. The 1848 constitution provided for its revision by the Chambers, and in a Message, dated the 31st January, 1850, the King published a new constitution with the approval of both Houses.

It is this constitution that has become the fundamental law of the Prussian State. By the original draft the Upper House, called in German "Herrenhaus," or "House of Lords," consisted of 240 members of five classes:—

(a) Princes of the Royal House of Prussia of the age of 18 and upwards.

(*b*) Mediatized princes and the heads of families appointed by Royal Ordinance to seats in the House according to the rights of primogeniture and lineal descent.

The Members comprised in classes (*a*) and (*b*) might not exceed 120.

(*c*) Ninety deputies directly elected by electoral districts comprised of electors paying the highest taxes to the State.

(*d*) Thirty members elected by the Municipal Councils of the large towns.

The composition of the "House of Lords" was largely changed by a law, dated the 12th October, 1854, which regulates—

The present Composition of the "Herrenhaus."[1]

Members of the House may be divided into three classes:—

I. Territorial nobility:—
(*a*) Hereditary representatives.
(*b*) Representatives of the lesser landowners and ecclesiastical chapters elected by them, and presented to the King for nomination as life members.
II. Representatives of the universities and larger towns, selected by the Senates or Town Council, and presented to the King for nomination as life members or for a term of years in case of the representatives of the towns.[2]
III. Life peers nominated by the King.

I. The territorial representatives are divided into nine classes, four of which are composed of hereditary members and five selected by the King:—

1. The head of the House of Hohenzollern Sigmaringen.
2. The twenty-two princes mediatized at the Congress of Vienna who are Prussian subjects.
3. The representatives of the nobility summoned to the Upper House by the Diet of 1847, i.e., the Princes and Lords of Silesia, and those princes, counts, and lords who are hereditary members of the eight provincial Diets. There are at present fifty-two such families.
4. Representatives of families to whom a hereditary seat has been granted by patent, of which there are at present thirty-two.
Selected members representing the land-owning class.
5. The four great territorial officers of Prussia:—
The Landhofmeister.
The Chancellor.
The Obermarschall.
The Oberburggraf.

6. Representatives of the three Cathedral chapters. Members of the chapters elected by their colleagues for presentation to the King for selection.
7. Representatives of the "Unions of the Counts of the eight provinces." In each of the eight provinces the assembly of Counts holding Knights' estates have the right to elect one representative for presentation to the King for selection.[3]
8. The fifty-six "Unions of ancient and assured landed properties." These Unions together present ninety members for selection.[4]
A Knight's estate, in order to be able to send an elector to the Union, must have been in the same family for at least fifty years, and must be entailed in the direct line.
9. Representatives of families holding large estates which have been granted the right to present one of their members for selection by the King. There are at present sixteen such families.

II. Selected members representing the towns and universities:—
1. The Senate of each of the Prussian Universities chooses a member of their body to present to the King for selection.
2. Forty-eight towns have been accorded the right to choose a member of the town magistracy to present to the King for selection, either as life members or for a fixed period.

[1] See Annex 2.
[2] By a law of March 23, 1872, members of the Audit Department cannot be elected to the Landtag.
[3] See Annex 3.
[4] See Annex 4.

III. Life members:—

1. Princes of the House of Prussia summoned to attend by the King. No prince has, however, received a summons to attend since the constitution was granted.

2. Persons specially selected by the King on account of their services to the country. At present the life peers number sixty-two persons, and consist of landowners, civil officials, diplomatists, clerics, military and naval officers, university professors, merchants, mineowners, manufacturers, and bankers.

Qualifications for Membership of the "Herrenhaus."

1. No person can be a member of the Upper and Lower House at the same time.

2. All members of the Herrenhaus must be Prussian subjects domiciled in Prussia. They must be in full exercise of their civil rights, and not in the active service of a foreign State.

Princes of the Royal House must be at least 18 years of age; representatives of the "Unions of Counts" and the "Unions of ancient and assured landed properties" must be at least 25 years of age, and all other members at least 30 years of age.

3. The qualification of the members is to be proved by the House.

Disqualifications of Members of the House and the Methods by which the place of a Member who has been unseated is refilled.[2]

Should a member be considered by the King, with the consent of the House, to have forfeited his honour, or to be living or behaving in a manner derogatory to the House, he may be deprived of his seat. The same penalty is inflicted on him if he loses his honour in accordance with 33 or 34 of the Penal Code.[3]

Should a member be charged with a crime, or should there be any other weighty ground for suspending him temporarily from his seat, the House may so suspend him with the Royal consent.

Should an hereditary member of the Chamber be deprived of his seat, his family must obtain the Royal consent to the election of a person to be presented for Royal selection in his place.

Should a life member be deprived of his seat the Sovereign will decree a fresh presentation.

Rights, Duties, and Privileges of the "Herrenhaus," as laid down by the Constitution.[4]

1. The Landtag must be regularly convoked during the month of November.

2. The Herrenhaus must be convoked, adjourned, and prorogued at the same time as the Lower House.

3. The Herrenhaus possesses an equal right to propose legislation with the King and the "Abgeordnetenhaus," but Money Bills must be introduced in the Lower House, and they must be accepted or rejected *en bloc* by the Herrenhaus. No Bill can become law without the consent of the Crown and of both Houses.

4. The proceedings of the Herrenhaus are public, but a secret debate may be ordered on the proposition of the President or of ten members.

5. No resolution is valid unless a quorum (sixty) of the House be present.

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[1] See Annex 1.
[2] See Annex 1.
[3] See Annex 1.
[4] See Annex 1.

6. The Herrenhaus can demand the presence of Ministers to give explanations or to reply to questions. Ministers or their representatives have the right to speak in the House, but not to vote unless they are regular members thereof.

7. The Herrenhaus has the right to present addresses to the King.

8. No one may deliver a petition or address to the House in person.

9. The Herrenhaus may appoint Commissions of Investigation, which present their reports to it.

10. The Herrenhaus settles its own procedure and elects its own officers.

11. The Herrenhaus may impeach Ministers for breach of the constitution, corruption, or treason, and the matter is then tried by the highest court in the realm.

12. The decisions of the House are by a majority.

Rights, Duties, and Privileges of Members, as laid down by the Constitution.[1]

1. All members must take the oath of loyalty to King and constitution in the prescribed form.

2. The members of the House are considered to be representatives of the whole nation. They are to vote according to their convictions, and are not bound by previous instructions. They cannot be called to account either for votes or opinions given by them in the House.

3. No member of the Herrenhaus can be arrested without the consent of the House, unless the arrest be effected *in flagrante delicto* or within twenty-four hours of the committal of the crime. This also applies to arrest for debt.

4. Should the Chamber demand it, all criminal proceedings against one of its members, and all judicial examination or civil arrest must be suspended during the session.

5. Civil officials do not require leave of absence from their duties to attend the sittings of the House.

6. No member can have two votes or vote by proxy. In the case of a member becoming entitled to two votes, one of them lapses (*e.g.*, the present "Oberburggraf" and "Obermarschall" were already qualified members of the House when they were appointed to these offices, and their votes in the latter capacity consequently lapsed.)

CRANLEY.

ANNEX 1.

BERLIN, July 17, 1907.

Extracts from the Provisions of the Constitution of 1850 regulating the Constitution and Functions of the Upper House.

XLVIII. The King has the right of declaring war and concluding peace, as also of entering into other treaties with foreign Governments. The latter, in order to be valid, require the concurrence of the Chambers, if they are commercial treaties, or if burthens are thereby imposed upon the State or obligations upon individual citizens of the State.

XLIX. The King has the right of granting pardons and mitigating punishments.

This right can only be exercised in favour of a Minister who is condemned in consequence of his official acts on the motion of the Chamber from which the accusation proceeded.

The King can only quash an inquiry already commenced by virtue of a special law.

[1] See Annex 1.

LI. The King convokes the Chambers and closes their sittings. He can either dissolve both at once or only one. But in such a case the electors must be assembled within a period of sixty days after the dissolution, and the Chambers within a period of ninety days after the dissolution.

LII. The King can prorogue the Chambers. Without their consent this prorogation cannot exceed the term of thirty days, and cannot be repeated during the same session.

LVII. If there be no agnate of age, and if this case have not already been legally provided for, the Ministry of State has to convoke the Chambers, which are to elect a Regent in a united sitting. Until this entry upon the Regency, the Ministry of State conducts the Government.

LX. The Ministers, as well as the officers of the State appointed to represent them, have access to each Chamber, and must at all times be heard at their desire. Each Chamber can desire the presence of the Ministers. The Ministers have only a right of voting in the Chamber in which they are members.

LXI. The Ministers may be impeached by the resolution of a Chamber for the crime of violating the constitution, of corruption, and of treason. The Supreme Court of Judicature of the Monarchy decides upon such an impeachment in united debates. So long as two Supreme Courts of Judicature still exist, they assemble together for the above object.

LXII. The legislative power is exercised in common by the King and the two Chambers.

The agreement of the King and both Chambers is requisite for every law.

Projects of financial laws and Budgets will first be submitted to the Second Chamber. The latter will be wholly adopted or rejected by the First Chamber.

LXIV. To the King, as well as to each Chamber, belongs the right of proposing laws.

Proposed laws which have been rejected by one of the Chambers or by the King cannot be brought forward again during the same session.

LXXVIII, paragraph 1. Each Chamber examines and decides upon the legitimation of its members. Each regulates the course of its proceedings and its discipline by an Order of Proceeding, and elects its president, vice-presidents, and secretaries.

Paragraph 2. Government officials require no leave of absence in order to attend the Chambers.

LXXIX. The sittings of the Chambers are public. Each Chamber may proceed, on the motion of its president or of ten members, to a secret sitting, in which the first thing to be decided upon is this motion.

LXXX. Neither of the two Chambers can pass a resolution, if the majority of the legal number of its members be not present.

Each chamber passes its resolutions according to the absolute majority of votes, with a reservation of any exceptions which may be decided upon for elections, by the regulations for the Order of Proceedings.

LXXXI. Each Chamber has the right of sending addresses to the King.

Nobody shall present in person a petition or an address to the Chamber, or to either of them.

Each Chamber can refer to the Ministers the papers addressed to it, and ask them for information relative to the complaints received.

LXXXII. Each Chamber has the power of appointing committees in order to inquire into facts for its information.

LXXXIII. The members of both Chambers are representatives of the whole people. They vote according to their free conviction, and are not bound by commissions or instructions.

LXXXIV. They can never be called to account for their votes in the Chamber, and for the opinions expressed in it, only within the Chamber by reason of the regulations for the Order of Proceedings (article lxxviii).

No member can be proceeded against or arrested for a penal act without the consent of the Chamber to which he belongs during the period of a session, except when he is taken in the act, or in the course of the day following its commission.

A similar consent is necessary in case of an arrest for debt.

Every penal proceeding against a member of the Chambers, and every preliminary or civil arrest is removed for the period of the stitting, if the Chamber concerned demands it.

CVII. The constitution may be altered by the usual way of legislative proceeding, in which case the ordinary absolute majority of votes in each Chamber, on two divisions between a period of at least twenty-one days must intervene, is sufficient.

CVIII. The members of both Chambers and all functionaries of the State take the oath of allegiance and obedience to the King, and swear the conscientious observance of the constitution. The army is not sworn to the constitution.

CXIX, paragraph 1. The oath of the King, mentioned in article liv, as well as the oath prescribed to be taken by both Chambers and by all functionaries of the State, are to be taken immediately after the present revision of this Constitution has been completed by legislative proceeding (articles lxii and cviii).

ANNEX 2.

Law of October 12, 1854, regarding the Constitution of the Upper House of the Prussian Parliament.

I. The Upper House consists of:—

1. Princes of the Royal House of full age, as established by the Prussian Royal Family law, who are summoned to attend by the King.
2. Hereditary members.
3. Life members.

II. Hereditary members are as follows:—

1. The head of the Princely House of Hohenzollern Sigmaringen.
2. The head of those mediatized families recognized by the Congress of Vienna who are Prussian subjects.
3. Those princes, counts, and lords who were summoned to the Upper House of the United Landtag of 1847.

N.B.—The princes and lords of Silesia, and those princes, counts, and lords who are members of the eight provincial Landtags.

Besides the above-mentioned persons, those having a hereditary right to a seat and vote in the Upper Chamber comprise persons who have been summoned to a seat in the Herrenhaus by a Special Royal Ordinance or Patent. The manner in which the succession to the seat is determined on the death of the holder is laid down in each individual Patent.

III. Life members are selected from the following categories:—

1. The holders of the four great offices of Prussia.
2. Persons specially chosen by the King for selection.

IV. The right of presentation for selection belongs to:—

1. The chapters who are represented in the Upper House of the United Landtag of 1847.
2. A representative of the nobles possessing Knight's estates in each of the eight provinces.

3. A representative of those families who possess large landed estates to whom the right to present a member to the King for selection has been granted.

4. The Unions of ancient and assured properties.

5. A member of the Universities.

6. A member of each of the towns to whom the right has been conceded.

V. The representatives presented by the chapters must be chosen by each chapter from among its members. Those presented by the universities must be chosen from among the professors of the university by the academic Senate, and those chosen by the towns by the town council, or, in default of a collegiate assembly, by the constitutional representatives of the town from among the members of the magistracy.

VI. The rules as to the constitution of Unions of ancient landed properties, and those as to the exercise of the right of presentation, are laid down by the Crown.

VII. Only Prussian subjects 30 years old, in full exercise of their civil rights, domiciled in Prussia, and not in the active service of a non-German State, can be members of the Herrenhaus.

VIII. Members of the Upper House chosen under paragraphs 4, 5 and 6, lose their seats should they lose their qualification for presentation to the King for selection.

IX. If a Royal decision is communicated to the House to the effect that one of the members has lost his honour, or that he is living or behaving in a manner derogatory to the House, he may, with the consent of the House, be deprived of his seat.

X. With the Royal consent a member of the House may be suspended from his functions while an investigation as to his proceedings is in process, or for any other important cause.

XI. If a member be deprived of his seat, the Royal consent must be obtained, in the case of an hereditary member, to select another member of the same family to fill his seat; and in the case of a member selected for presentation, as provided in paragraphs 4, 5 and 6, a Royal command will be issued for another presentation to be made for selection.

Annex 3.

Decree for the Regulation of the Constitution of Unions of Ancient and Assured Landed Properties, and for the Regulation of the Election of persons to be presented for selection as Members of the Herrenhaus both by the Unions and by the Provincial Unions of Counts.

1. Representatives of the Unions of ancient landed properties are chosen in the following proportions:—

Province of Prussia	. . . . .	18
" Brandenburg	. . . . .	15
" Pomerania	. . . . .	13
" Silesia	. . . . .	18
" Posen	. . . . .	7
" Saxony	. . . . .	10
" Westphalia	. . . . .	4
" Rhine	. . . . .	5

2. A Knight's estate, in order to be considered "an ancient landed property," must have been in the same family for at least fifty years. (The family changes, if the daughter being an heiress marries a man owning real property.)

3. To be considered "an assured landed property" the succession must be entailed in the male line.

4. Persons presented for selection either by the "Unions of ancient and assured landed properties" or by the provincial Unions of nobility, must be Prussian subjects 25 years of age, in full possession of civil rights, not in the active service of a non-German State, and must be domiciled in Prussia.

5. Hereditary members of the Herrenhaus cannot take part in the election, either of persons to be presented for selection by the "Unions of ancient and assured landed properties," or of persons to be presented for selection by the provincial Unions of nobility; but members of the latter Unions, who are qualified by their Knights' estates as members of the "Unions of ancient and assured landed properties," are entitled to vote in both categories.

6. If a Knight's estate is in possession of several persons, only one is entitled to vote, though that vote may be exercised by any one of the proprietors.

7. A land owner possessing property in several Unions can exercise his vote in each.

8. The elections of persons to be selected for presentation must be arranged by the members of the Union.

9. The process of election is governed by the regulation for the election of the estates of the 22nd June, 1842, but no election is valid unless at least ten electors exercise their votes.

10. The register of voters and the appointment of a polling day is in the hands of the chief Government official of the district.

11. Should there be less than ten qualified voters in one Union, they must vote together with the nearest Union, which numbers at least ten qualified voters.

ANNEX 4.

Extracts from Sections 32, 33 and 34, of the German Penal Code, May 15, 1871.

32. The penalty of death, and penal servitude entails loss of honourable civil rights; in the case of condemnation to prison, only for sentences exceeding three months.

33. The rights formerly enjoyed by a person who loses his honourable civil rights lapse altogether, and he thus loses the right to take part in public elections or to fill any public office or dignity.

34. During the course of his sentence any person who has lost his honourable civil rights is unable:—

(1) To be nominated to any office or dignity;

(2) To take part in public affairs, to elect representatives, or to be elected as a representative, or to exercise any other political right.

SAXONY.

No. 13.

Mr. Findlay to Sir Edward Grey. (Received August 24.)

DRESDEN, August 21, 1907.

SIR,—In reply to your Circular of the 10th ultimo, I have the honour to inclose herewith a report on the composition and functions of the First or Upper Chamber of the Saxon Landtag, together with a short account of two differences of opinion which have arisen between the First and Second Chambers during the last six years.

I have, etc.,

M. DE C. FINDLAY.

INCLOSURE IN NO. 13.

Report on the Composition and Functions of the First or Upper Chamber of the Saxon Landtag, and respecting recent disputes between the two Chambers.

The Upper Chamber comprises princes of the Royal Family who are of age, one deputy of the Lutheran Archbishopric of Meissen, one deputy of the Herrschaft of Wildenfels, one of the proprietors of the mediatized domains (which are now held by five owners), one deputy of the University of Leipzig, the two proprietors of "Standesherrschaften," the Lutheran "Oberhofprediger" in Dresden, the Roman Catholic Dean of Bautzen, the Superintendent at Leipzig, one deputy of the Collegiate Institution of Durzen, one of the owners of four estates in fee, twelve deputies elected by the owners of other nobiliar estates for life, ten proprietors and five other members elected by the King for life and the mayors of eight towns

The qualification for a seat in the Upper House is the possession of a landed estate worth at least 4,000 marks a year, and for the right to elect a member to the same the possession of a landed estate valued at least at 3,000 marks a year.

Each member (except the hereditary members) receives 12 marks per diem, or 6 marks if he usually resides in Dresden, and travelling expenses.

The Upper House may propose new laws, even of a financial nature, and may amend financial Bills passed by the Second Chamber; but no taxes can be levied, nor laws passed, except by the common consent of both Chambers.

The parliamentary system in Saxony is very different from ours. The Chambers are only convoked once every two years, and it is not necessary or even customary for Ministers to resign because they have been defeated in Parliament. Ministers are, in fact, responsible to the King, and not to the Chambers, though it would probably be impossible for a Minister who had lost the confidence of the Chambers to maintain his position for any length of time unless supported by the public opinion of the country at large.

In case of a difference between the two Chambers, i.e., the rejection by the one of a Bill passed by the other, the matter is referred to deputations of both Chambers, who meet and endeavour to arrive at an agreement.

Of recent years there have been two differences of opinion between the First and Second Chambers of the Landtag:—

1. In 1901 the Second Chamber passed a Bill subjecting agricultural stock and plant, (machinery, buildings, draught horses, and cattle) to taxation on their estimated value, from which they had hitherto been exempted. This Bill was rejected by the First Chamber, in which the landed and agricultural interests are strongly represented. The Bill was discussed in every session up till 1906, when it was finally accepted by the First Chamber.

2. In 1905, Minister von Metzsch introduced a Bill altering the constitution of the First Chamber by the introduction of various university, municipal, and commercial representatives appointed by the King, but chosen, at any rate indirectly, by election. The First Chamber rejected this Bill. Deputations of both Chambers were appointed, and discussed the proposed reform at length, but without result, and finally separated "in a friendly manner." Minister von Metzsch resigned not long after the rejection of his proposed reforms.

M. De C. FINDLAY.

DRESDEN, August 21, 1907.

SESSIONAL PAPER No. 246

SPAIN.

No. 14.

Sir M. de Bunsen to Sir Edward Grey.—(Received August 6.)

SAN ILDEFONSO, August 2, 1907.

SIR,—In obedience to the instructions contained in your Circular of the 10th ultimo, I have the honour to forward herewith a report which I have drawn up on the Spanish Senate.

I have, etc.,

MAURICE DE BUNSEN.

Inclosure in No. 14.

REPORT ON THE SPANISH SENATE.

In its present form the Senate dates from the constitution drawn up in 1876, a year after the Bourbon restoration in the person of King Alfonso XII. Article 18 declares that the power to make laws resides in the Cortes with the King. The Cortes are described in article 19 as two "co-legislative" bodies of equal power, namely, the Senate and the "Congreso," of Chamber of Deputies. Article 20 gives in outline the composition of the Senate, namely:—

1. Senators in their own right.
2. Life senators named by the Crown.
3. Senators elected, in the manner to be determined by law, by the "Corporations of the State, and the highest taxpayers."

Non-elected senators not to exceed in number the 180 elected senators.

The constitution itself gives in articles 21 and 22 the qualifications for the above three categories of senators.

The following are senators in their own right:—

Sons, being of full age, of the King and heir to the Crown.

Grandees in their own right, being Spaniards, and having an income of 60,000 pesetas (2,400*l.* at par) a year derived from real property, or from such as is held to be legally equivalent.

Captains-General of the Army (i.e., Field Marshals) and the admiral of the Fleet. There are at present two Captains-General out of a possible four. The office of Admiral of the Fleet, vacant by the recent death of Admiral Beranger, has not been filled up.

Patriarch of the Indies (an extinct dignity) and Archbishops.

Presidents of Council of State, Supreme Court, Court of Accounts, Supreme Council of War and Marine after two years' office.

The following, being Spaniards, may be nominated or elected senators:—

1. Presidents of Senate and Chamber of Deputies.
2. Deputies who have sat in three different Parliaments, or in eight parliamentary sessions.
3. Ministers of the Crown.
4. Bishops.
5. Grandees of Spain.
6. Lieutenant-Generals and Vice-Admirals after two years' employment.

7. Ambassadors after two, and Ministers Plentipotentiaries after three years' active service.

8. Members of Council of State, Supreme Council of War and Marine, and various other officers of the law and military orders.

9. Presidents of the six Academies, viz., Royal Academy of Spain, and Academies of History, Fine Arts, Exact Sciences, Moral and Political Sciences, and Medicine.

10. Senior members of the above Academies, Inspectors-General of Civil Engineers, University Professors of four years' seniority. They must have an income of 7,500 pesetas (300*l.* at par) a year.

11. All persons of title, ex-deputies to Cortes or provincial Assemblies, ex-mayors of provincial capitals and towns of over 20,000 inhabitants. These must have an income of 20,000 pesetas (800*l.*) a year, or pay 4,000 pesetas (160*l.*) in direct taxes.

12. Ex-senators under former constitutions.

Royal decrees nominating life senators must specify which of the above twelve categories is the one to which the nominee belongs.

It is further required (article 26) that senators be over 35 years of age, that no criminal action be pending against them, that they be in full enjoyment of their political rights and that there be no embargo on their property. Senators may accept no office (except that of Minister of the Crown), promotion, title, or decoration while the Cortes are sitting (article 25).

The election of senators is regulated by the law of the 8th February, 1877. It enumerates in the first place the "Corporations of the State," who elect senators under article 20 of the constitution, viz:—

1. Archbishop, Bishops, and Chapter of Archiepiscopal Sees of Toledo, Seville, Granada, Santiago, Zaragoza, Terragona, Valencia, Burgos, Valladelid. Total, 9 Senators.

2. The six academies enumerated above. Total, 6.

3. Universities of Madrid, Barcelona, Granada, Oviedo, Salamanca, Santiago, Seville, Valencia, Valladolid, Zaragoza. Total, 10.

4. The so-called "Economic Societies of Friends of the Country" elect one senator for each of the five districts which centre in Madrid, Barcelona, Leon, Seville, and Valencia. Total, 5.

Thus the "corporations" elect in all 30 out of the entire body of 180 elected senators.

The remaining 150 are elected by the 49 provinces, each returning 3 senators, except Madrid, Barcelona, and Seville, which return 4 each.

The electoral body in each province consists of:—

1. The provincial deputies (corresponding to "Conseillers-Généraux" in France, and, roughly, to County Councillors in England); and

2. Representatives of the Town Councils and highest taxpayers of the province.

The law of the 8th February, 1877, also lays down in detail the procedure to be followed by the "corporations" and provinces in electing their representative senators, and the manner in which the representatives of the town councillors and highest taxpayers are selected for the purpose of taking part in the senatorial elections at the provincial capital.

By article 32 of the constitution the King is invested with authority to summon the Cortes, which must meet every year, to suspend or close their sittings, and to dissolve, either simultaneously or separately, the elective portion of the Senate and the Chamber of Deputies. After dissolution, the new Chamber (or Chambers, as the case may be) must meet within a period of three months.

In the event of the King dissolving only the Chamber of Deputies, the elected portion of the Senate is automatically renewable as to half of its members every five years (article 24 of the constitution). In practice, however, the foregoing provision is absolute, dissolutions including always the elected portion of the Senate, as well as the Chamber of Deputies.

The Senate draws up its own internal regulations, and pronounces on the qualification of its members and the validity of their elections (article 34). The King appoints the President and Vice-President of the Senate from amongst its members (article 36). Except when the Senate exercises judicial functions, one Chamber of the Cortes may not sit without the other being also in session (article 38). Laws initiate with the King, and with either of the two Chambers composing the Cortes (article 41), but laws relating to taxes and the public credit must be first presented in the Chamber of Deputies (article 42). The power of the Senate to reject or modify Money Bills is unquestioned. In practice, however, they exercise this right sparingly, and the amendments introduced into the Money Bills sent up from the Chamber of Deputies are such as the mixed committees described below always find it possible to cast into a form which will make them acceptable to both Chambers, and so secure the passage of the Bill. At the present moment the Senate is engaged in amending an important Government Bill relating to the taxation of sugar. But it is confidently predicted that there will be eventual agreement with the other Chamber, as indeed always happens in Money Bills as well as others.

Such agreement is secured by the operation of the law of relations between the two Chambers of the 12th July, 1837 (article 10), of which prescribes that "if one of the Chambers modify or disapprove in any of its parts a Bill already passed in the other Chamber, a committee shall be formed, composed in equal numbers of senators and deputies for the purpose of conferring on the mode of conciliating the conflicting opinions. The report of this committee shall be discussed without any alteration by the Senate and the Chamber; and, if accepted by both, the Bill shall be held as passed."

Thus no amendment may be introduced into the Bill as finally submitted to the Chamber, by the mixed committee.

These mixed committees consist of the committees in either Chamber which examined the Bill in question, and which consist usually of seven members, elected by the seven sections into which both Houses are respectively divided for the purpose of considering Bills. Should the deputies appointed by the Chamber to take part in the mixed committee fall short of or exceed seven in number, the Senate Committee is reduced by lot, or increased by additional committeemen appointed by the sections, in such a manner as to secure numerical equality with the representatives of the other Chamber. (Article 89 of the Senate regulations.)

It may here be explained that, both in the Senate and Chamber of Deputies, Government Bills and Bills which have passed the other House are at once referred to the seven sections, which proceed to appoint the committee whose report is the foundation of the ensuing discussion. Bills originating with a private member (Senate or deputy, as the case may be) are also referred to the sections, but before a committee is appointed to consider them at least one section, and in the case of a proposed constitutional charge a majority of the seven sections must first decide by majority, that the Bill may be read, and it is only after such first reading in open session that, the Chamber approving, the sections are called upon to appoint the requisite committee.

In the Senate (as in the Chamber of Deputies) decisions are taken by majority of votes, but to pass a law half the full number of Senators plus one must be present. This point, however, is not as a rule enforced, except on the demand of one or more senators. (Constitution, article 43.)

Apart from their legislative powers, the Cortes are required by article 45 of the constitution:—

1. To receive the constitutional oath from the King, from the Heir Apparent, and from the Regent;

2. To elect the Regent or Regency when the constitution directs, that is, in the absence of near relatives qualified under the constitution to take over the Regency automatically; and

3. To hear impeachments brought against Ministers of the Crown by the Chamber of Deputies.

The Law of Relations between the two Houses of the Cortes, already referred to, lays down the procedure to be followed when the two Houses meet as a single body, that is to say:—

1. To witness the opening or closing of the session by King or Regent in person;

2. To receive the King's oath to the constitution, or that of the Heir Apparent or Regent; and

3. To appoint a Regent or the guardian to a King in his minority.

The latter function seems, however, to be now reserved to the Senate alone, under the above-quoted article 45 of the constitution.

The functions of the Senate as a Court of Justice are defined in a law of the 11th May, 1849. The Senate sits as a Court of Justice, in virtue of a Royal decree based on a decision of the Council of Ministers, for the three following purposes:—

1. To hear impeachments brought against Ministers by the Chamber of Deputies.

2. To hear actions in respect of grave offences ("delitos graves") against the person or dignity of the Crown, or against the internal or external security of the State.

3. To hear cases of misdemeanour ("delitos") committed by Senators.

But actions brought against senators are now governed by the constitution of 1876, which lays down (article 47) that, except when caught *in flagranti*, no Senator may be proceeded against or arrested without the previous permission of the Senate, and that the Supreme Tribunal is the Court having jurisdiction over senators accused of criminal offences.

In point of fact, there has been no instance of the Senate sitting as a Court of Justice since the impeachment of Senor Esteban Collantes half a century ago.

The present party aspect of the Senate, as a whole, is approximately as follows:—

Ministerialists (Conservatives)	195
Liberals (followers of Señor Moret)	66
Democrats (followers of Señor Canalejas)	25
Republicans	7
Ecclesiastics	17
Carlists	7
Religionists	5
Integrists	1
Independents	22
Catholic League	4
Royal Household	6
Total	355
Five seats vacant	5
Total of Senate	360

It cannot be said that any constitutional disputes have arisen within the last ten years, or indeed, previously, between the two Chambers of the Cortes. The provision made by the Law of Relations between the Chambers, as quoted above, and which provides the machinery for adjusting differences between them, is found in most cases to be capable of bringing about an agreement. When it is obvious that the two Chambers are irreconcilably opposed to each other on a point of importance, the practice is for the Government to procure from the Crown a dissolution. In the new Chambers resulting from the consequent general election the majority in the two Houses may or may not permit the Bill to be reintroduced and carried, and the Government takes its measures accordingly. It is not customary to press controversial questions to an issue between the two Houses. Such questions are either quietly dropped or taken up again when the parliamentary situation permits.

It may be mentioned that in July, 1906, Señor Moret, being then Liberal Prime Minister, pressed for a dissolution on the ground that the state of parties in the Chambers would not permit him to pass the Liberal measures which he held to be necessary. These measures were aimed at the modification of two articles of the constitution of 1876, viz., article 2, which places certain disabilities in the way of religious services not being those of the State Church, and article 20, which prescribes the composition of the Senate, and as to which latter article Señor Moret desired to introduce a reform increasing the existing proportion of the elected members of the Senate in relation to the non-elected portion. His object was to bring the Senate into greater harmony with the Chamber of Deputies, as regards more especially the religious question, in which it was not certain that the Senate, even after a general election, would be willing to follow the Chamber of Deputies if the latter should adopt the anti-Church legislation advocated by the extreme sections of the Liberal party.

Failing, however, to secure the support of the other Liberal leaders, who declared themselves ready to carry on the Government with the existing Chambers, Señor Moret resigned office, and it was in consequence of the vain endeavours of his Radical successors, who were divided among themselves, to carry their Bills that the present Conservative Administration took office in January last. The legislation which Señor Moret desired to pass found no support in public opinion, and the conflict to which he looked forward between the Chambers, and which he hoped to avert by a constitutional change, has, in point of fact, never come to a head.

It is, of course, constitutionally quite possible that the institution of the mixed committee might fail to secure agreement, and that a conflict might arise on a vital point. This is, however, rendered improbable by the differential treatment which is habitually extended by one House to the other; by the constitutional description of the two Houses as being co-equal in power; and by the absence hitherto in Spain of a powerful public opinion, rendering imperative the passage of a particular measure, even if it should be uncompromisingly opposed by the Senate, which is in itself an unlikely contingency in view of the manner in which the Senate is composed. The elected portion tends in the long run to coincide in opinion with the majority of the popular Chamber, and this tendency is encouraged by the prevailing practice which requires members of the Royal household (some six of whom are at present sitting in the Senate) to vote with the Government of the day, which they regard as the King's Government, and therefore commanding their support. It is, further, customary for the ecclesiastical senators to support the Government, or to abstain altogether from voting if they are not able to do so.

SWEDEN

No. 15.

Sir R. Rodd to Sir Edward Grey.—(Received August 10.)

STOCKHOLM, August 6, 1907.

SIR,—With reference to your Circular despatch of the 10th ultimo, I have the honour to transmit herewith in execution of your instructions, a report on the composition and functions of the Upper Chamber in Sweden. I observe that in this circular I am directed to report on the Second or Upper Chamber. The Upper House of the Swedish Diet is the First Chamber, and the popularly-elected House is known as the Second Chamber. To avoid confusion I have therefore spoken of the Chamber which forms the subject of my report throughout as the "Upper Chamber," though it would have been more correct to use the appellation "First Chamber."

I have, etc.,

RENNELL RODD.

Inclosure in No. 15.

REPORT ON THE COMPOSITION AND FUNCTIONS OF THE UPPER CHAMBER IN SWEDEN.

The Swedish Upper or First Chamber.

The Upper Chamber in Sweden is generally known as the "First Chamber." The popularly-elected House with a triennial legislative period is called the "Second Chamber." To avoid confusion it will therefore be safest to speak throughout of the Chamber, as to whose composition and functions a report is required, as the Upper Chamber.

Constitution and Mode of Election hitherto.

The Upper Chamber consists of 150 members, contrasted with 230 members in the second or popularly-elected Chamber. These 150 members are elected by the county councils[1] and the municipal councils of the city of Stockholm, of Gothenburg, Melmö, Norrköping, and Gefle, which are not represented on the county councils. The distribution of members depends on the population in electoral districts, which is reviewed by census every tenth year. To be eligible to the Upper Chamber candidates must be 35 years of age, and must for three years have been rated for income tax on at least 4,000 crowns (£220). As, however, members of the Upper Chamber have hitherto received no salary, they have in practice always been selected from candidates enjoying a far more considerable income. They sit in each individual case for nine years from the day of their election, and they are replaced, as vacancies occur through resignation, death, or extinction of the mandate, by others who again sit for a term of nine years. The Upper Chamber has thus in practice a permanent character. It can be dissolved, but such a step has never been taken since the Organic Law of 1866 came into operation.

Election of County and Municipal Councillors.

The mode of election of county and municipal councillors who return the members of the Upper Chamber will now be briefly described. Cities or towns which have more than one one-hundred and fiftieth of the total population are not repre-

[1] The term 'County Council' must not be assumed to be the equivalent of County Council in England. The Swedish Landsting might also be rendered by Provincial Assembly, but a province in Sweden is distinct from a län, which comes nearer to our country.

sented on the county councils, but have their own municipal representation performing corresponding functions. Such cities or towns are, as has been mentioned, Stockholm, Gothenburg, Malmö, Norrköping and Gefle.

Every town and every parish practically in Sweden constitutes a commune, but the larger towns are divided into more than one. The right to vote in the commune is enjoyed by both men and women of full age owning or renting certain real property, or contributing by direct taxation to the State. The apparently democratic basis is modified by the fact that the suffrage is a graduated one, additional votes being accumulated in proportion to the total amount paid in taxes on real property and income up to a maximum limit of 5,000 votes or one-tenth of the total voting power accruing to any one individual in the county communes, and 100 votes, or one-fifth of the total voting power, in the towns. The city of Stockholm has 100 municipal councillors. No other town has more than sixty, elected for four years, half of them retiring every second year.

In urban communes returning members to a county council, the latter are elected by the communal assembly, one for every complete total of 2,500 inhabitants. In the country communes members of the county councils are returned by indirect election, the electors being chosen by the communal assemblies, and one representative elected for every 5,000 inhabitants. County councillors must be 25 years of age, domiciled in the county, and must themselves possess the suffrage. They are elected for two years.

The return of members to the Upper Chamber thus rests fundamentally on the graduated property suffrage which determines the election of county and municipal councillors.

Reform in Constitution of Upper Chamber, and method of Election thereto passed by present Diet, but awaiting confirmation by a new Diet after General Election.

A proposal for the reform of methods of election to both Chambers is now before the country, and was carried through both Chambers of the Legislature in the session of the current year. As, however, any modification of the constitutional law of Sweden must be passed by two successive Diets, this reform cannot become law until it has also been approved by a new Diet, after the next general election for the popular or Second Chamber. The new measure, besides establishing universal suffrage and the proportional method for elections to the popular Chamber, also provides that members of the Upper Chamber shall be elected as before by the county and municipal councils, but subject to the proportional system, which is also adopted for the elections to the Second or popular Chamber. The mandate of members of the Upper House is to run in future for six years instead of for nine as hitherto. The county and municipal councils returning the members are divided into six groups. One of these groups in prescribed order will each successive year elect representatives to sit for the ensuing perior of six years. The Upper Chamber will thus remain permanent in character, one-sixth of its members only being subject to re-election every year. The county councillors will be returned by proportional election in constituencies distinct in town and country. A "political district" containing population amounting to 30,000 or upwards, will be divided into constituencies returning each at least three, at most six councillors. Boroughs will return one councillor for every 3,000 inhabitants, and where their population amounts to at least 6,000 they are to compose independent constituencies. Where the population falls below 6,000 they are to be grouped with other boroughs, so as to compose a single constituency with not less than 6,000 and not more than 12,000 inhabitants. In the communal suffrage a sweeping reform is contemplated, reducing the preponderating influence now attaching to the larger taxpayers, and giving the smaller contributors a much greater influence in the return of the Councillors who constitute the electors of the Upper Chamber. The property qualification established

by the Reform Bill for the indirect electors of the Upper Chamber is real estate of a value of 50,000 crowns (about £2,800), or an annual income of 3,000 crowns (about £105). In the country communes the electors are to have ten votes for every 1,000 crowns of rateable income, and an additional vote for every complete total of 500 crowns in excess of 1,000. Real estate is rated as producing 6 per cent on the estimated value. In the boroughs the electors are to record one vote for every 100 crowns of income up to a total of 2,000, after which total has been reached they are accorded one additional vote for each additional total of 500 crowns. In no case can the total of accumulated votes exceed forty, or one-tenth of the total voting power. The maximum income conferring votes will thus be 16,000 crowns in the country districts and 12,000 in the urban.

The proportional system is henceforth to be applied to all elections, both to those of the Upper and Second Chambers and those of the county and borough councils. The measure also contemplates the payment of members of the Upper Chamber on the same scale as prevails for members of the Second Chamber (12,000 crowns i.e., £66, or 10 crowns a day), which is not increased if the session is prolonged beyond the statutory four months.

Equal Competence for both Chambers under Constitution.

The Swedish constitution accords perfectly equal competence both in financial and other questions to both Chambers, which share the legislative authority with the King. Legislation requires the assent of both Chambers, voting independently, except in financial questions, where, under certain circumstances, a common vote is taken, but parliamentary practice allows, when the decision of the Houses shows only a slight divergence, arising from the adoption in one Chamber of an amendment not accepted by the other, that the matter in hand should be referred back to committee, with a view to effecting a compromise acceptable to both.

Financial Issues when Conflict arises decided by Joint Vote.

Financial questions on which the decisions of the two Chambers are in conflict are submitted to a common vote of both Houses voting as one body, when the absolute majority is decisive. As the Upper Chamber consists of only 150 members, whereas there are 230 in the popular Chamber, it is clear that the latter has numerically the stronger voice, but in practice, inasmuch as the Upper Chamber has generally been found homogeneous in character, while in the popular Chamber parties are more evenly balanced, the influence of the former has been somewhat preponderating.

The principle of common voting on financial questions has undoubtedly contributed to counteract constitutional conflicts between the two Houses. But in questions of internal legislation such conflicts have of late years tended to increase owing to the essentially conservative character which its composition has given to the Upper Chamber and the rapid development of progressive ideas in the country.

Conflict between the two Chambers.

In illustration of such conflicts may be mentioned the process of legislation with regard to the insurance of workmen. The first Bills introduced to deal with a portion of this problem were rejected by the Diet in 1890 and 1891. A Bill submitted by the Government in 1895 for compulsory insurance against any permanent incapacitation from work, from whatever cause, age, accident, etc., was also rejected, and further investigation demanded. A new Bill for insurance against invalidity was introduced in 1898, and here a conflict of opinion arose between the two Houses, the measure being accepted in principle, with certain provisoes, in the popular Chamber, but rejected

by the Upper Chamber, which apprehended the heavy burden with which it threatened to saddle the State. The problem of old age insurance was accordingly for the time abandoned, and in 1901 both Chambers united in approving a measure dealing with the insurance of workmen against accident only.

In contrast with its action in thus retarding legislation, the Upper Chamber in 1905 showed itself zealous to promote legislation which the popular Chamber hesitated to consent to. It had been proposed to organize an universal strike as a protest against the restrictions of the Reform Bill then before the Diet. A Bill was introduced by the Government, and modified in Committee, proposing certain modifications in the Criminal Code, by which severe penalties were to be imposed on workmen who, by breaking their contracts of engagement and going on strike, caused actual injury to life, health, or property, as well as on employees in the public service who without reasonable cause abstained from the execution of their duties, and assimilating to public servants persons employed by municipalities, railway men, and others. The Bill was carried by acclamation in the Upper Chamber, while in the popular Chamber the first part of the proposal was rejected by a majority of two, and the second by a majority of nineteen.

These cases are referred to rather as typical of the different tendencies of the two Houses than because the conflict of opinion led to any grave result. Many more instances might no doubt be offered in illustration of the charge so frequently brought against the Upper Chamber of obstructiveness to popular legislation, but all other conflicts between the two Houses have been completely thrown into the shade by the battle which arose over the larger issue of electoral reform, especially since the general election of 1905, when a Liberal majority was returned to the popular Chamber with a significant increase in Socialist representation.

The popular voice in Sweden has long demanded an extension of the suffrage tantamount to universal suffrage,[1] and the demand has gathered strength each time a settlement has been deferred. For the purposes of the present report, however, it will not be necessary to take the history of the movement further back than the Reform Bill of 1905, by which date the necessity for an extension of the suffrage had, it may be said, been universally recognized, though a large party in the country adhered to the view that with its extension the adequate representation of minorities should be safeguarded by the introduction of the proportional method in elections.

Reform Bill of 1905.

A measure uniting these two objects was introduced by the late M. Boström's Government during the session of 1905. The suffrage proposed in this Bill was practically a manhood one, but restricted to Swedish subjects who had reached the age of 25 years, and the method of applying the proportional system was in many ways open to criticism. It was carried through the Upper Chamber, where many Conservatives who might have been opposed to the extension of the suffrage in principle recognized that it was inevitable, and held that proportional elections would serve to return to their party a group numerically sufficient to enable them to dominate in joint votes on financial questions. It was rejected in the Lower Chamber, where the Conservatives were divided on the merits of the proportional system, while the Liberal groups were opposed to a measure which seemed to imperil the future action of the party, and the Extreme Left protested energetically against the raising of the age of electors to 25.

In the autumn of 1905 a general election took place, and in the new elective Chamber the Liberals secured a slight majority, which was forfeited by a largely increased return of Socialist members. A Liberal Government was formed and a new Reform Bill framed in accordance with the views of their supporters.

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[1] The property qualification which it was sought to abolish was income to the amount of 800 kronor (44*l.*), or real property valued at least 1,000 kronor (55*l.*), or a lease of an agricultural estate of a value of at least 6,000 kronor.

Reform Bill of 1906.

The Bill submitted to the Diet in 1906 made no reference to the proportional method, and proposed representation by single-member constituencies with extension of the suffrage to all male Swedes who had completed their 24th year. It did not satisfy the partisans of the Extreme Left, but it was evidently hoped that the raising of the age from 21 to 24 would capture the support of moderate politicians. The Bill was entirely remodelled by a majority in the Standing Constitutional committee to which it was referred. The condition of proportional representation was restored, and the age of electors was once more fixed at 25. The majority in the committee of twenty-four, twelve from either House, consisted of all the members of the Upper Chamber and only one from the other. The Government Bill was rejected in the Upper Chamber by 126 to 18 votes, and the recommendations of the committee were adopted, with a supplementary resolution proposing to limit the mandate of members of that House to six years instead of nine. It was, however, carried in the popular Chamber by 134 votes to 94. The Prime Minister, who had addressed a solemn warning to the Upper Chamber not to oppose the national will, and had sustained in that Assembly that in political issues the two Chambers could not be considered of equal authority, recommended an immediate dissolution, in order to afford the country an opportunity of expressing its opinion on the attitude of the Upper Chamber. The Crown, however, dissented, on the strictly constitutional grounds that it would not be correct to dissolve a Chamber which had given its assent to a Royal Bill, i.e., a Government Bill, which has been approved by the Sovereign.

The Liberal Ministry then resigned, with the exception of the Minister for War and the Minister for Foreign Affairs, who had previously tendered their resignations in consequence of the attitude adopted towards the Upper Chamber by the Prime Minister and their colleagues, and these two were included in a new Administration of moderate politicians formed by the present Prime Minister, Commodore Lindman, who accepted office with a mandate from the Crown to frame a fresh Reform Bill on broad and popular lines, which should, however, not only apply the principle of proportional representation to the popular Chamber, but should also extend it to the Upper Chamber, the mode of election to which was to be completely revised with a view to giving it a more elastic character.

Reform Bill of 1907.

The reforms proposed by this Bill in the composition and constitution of the Upper Chamber itself have already been described in the earlier part of this report. As regards the popular Chamber, the proposals submitted were practically the same as those in the Bill of the Liberal Administration put forward in 1906, with the addition of proportional representation on lines which were generally admitted to be an improvement on those submitted in 1905.

The Government Bill underwent some modifications in committee, one of which had reference to the application of the proportional system, which was now amended so as to prevent the exclusion of party leaders by disloyal voting on the part of their opponents, and the other two were concerned with the communal and municipal Administrations, and thus with the basis for the electorate of the Upper Chamber. The first involved a small reduction in the property qualification of the voters, and the second threw open to women the candidature for communal appointments, but not for membership of the county councils. The committee rejected an amendment proposing a substantial reduction of the property qualification of electors to the county councils, fixed at 1,000 kronor (220*l.*) of income, or 80,000 kronor (444*l.*) of

real property, and another in favour of assigning a stipend to members of the Upper Chamber. The Government accepted without reserve the amendments adopted by the committee, and went a step further by acknowledging their readiness to adopt the amendment of the minority group in committee in favour of payment of members of the Upper Chamber.

This last concession on the part of the Government to the views of the Liberal Opposition was not popular in the Upper Chamber, but, after hearing the able and cogent exposition of the Government's policy made by the Prime Minister, the Bill, as thus modified, was adopted by 93 votes to 53 registered against it. The decision of so large a majority of the Upper Chamber, which had in a sense initiated the policy of its own reform, was a refutation of the charges of invincible obstinacy so frequently directed against that Assembly, and was probably not without its effect on the result in the popular Chamber, which divided subsequently. The Bill as amended by committee was rejected there without ballot. The Bill as amended by committee, with an addition of an amendment reducing the property qualification of the indirect electors of the Upper Chamber from 4,000 kronor (220*l.*) to 2,000 (110*l.*) of income, or real property to a value of 40,000 kronor, and assigning to members of that House a payment during session similar to that accorded to members of the other House, was carried by 122 to 105.

By this decision the views of the two Houses were brought so nearly into harmony that there was good reason to hope that a compromise would be found acceptable to both parties on the one issue, that of the property qualification, on which they were not in agreement.

The majority of the committee, to which the question was referred back, proposed to fix the property qualification at 3,000 kronor (165*l.*) of income, or real property at a value of 50,000 kronor.

The Upper Chamber then once more belied its untractable reputation, and adopted the proposal of the committee by 110 to 29 voices, while the popular Chamber recorded a larger majority in its favour, namely, 128 votes to 98, that had been secured by the amended Bill in the first ballot.

The Bill, which involves an alteration in the fundamental constitutional law, must now stand over until it has been confirmed or rejected in the first session of a new Diet after a general election. But the battle would seem to have been practically won, and there is good hope that the long-standing conflict has been thus disposed of.

By a curious irony the first Reform Bill of 1905 was carried through the Upper Chamber, but rejected by the Chamber whose electorate it was purposed to reform; while the Bill which was eventually adopted, and which included a far-reaching constitutional reform of the Upper Chamber itself, was introduced by a Conservative, though in no respects a partisan, Government, and succesfully carried through an elective Chamber with a well-defined Liberal majority.

SWITZERLAND.

No. 16.

Sir G. Bonham to Sir Edward Grey.—(Received July 24.)

BERNE, July 20, 1907.

SIR,—In compliance with the instructions contained in your circular of the 10th instant, I have the honour to transmit herewith a report on the relations between the two Chambers of the Swiss Legislature.

It will be seen that, according to the constitution and a law specially passed to define their relations to each other, they are absolutely equal, and I am informed positively that there has not been any constitutional dispute between them during the last ten years.

I have, etc.,

G. F. BONHAM.

Inclosure in No. 16.

REPORT ON THE RELATIONS BETWEEN THE TWO CHAMBERS OF THE SWISS LEGISLATURE.

The Swiss constitution does not admit of the existence of an Upper or Second Chamber in the sense in which the expression is generally used, namely, one for revising or remodelling or on occasion rejecting the decisions of the Lower. There are however, two Chambers, the relations between which are carefully defined (1) by the constitution of 1874; (2) by the law of the 9th October, 1902, revising a previous one of 1849 respecting the relations between the National Council, the Council of States, and the Federal Council, which, it may be here stated, is the Executive Government composed of seven members, the president, elected from among its members for one year, being also president of the Confederation.

The two other Councils, which for the purpose of this report it will be convenient to allude to as Chambers, constitute the Federal Assembly when they sit together, and their absolute equality is very carefully laid down.

By article 72 of the constitution, the National Council or Chamber, is elected directly by the people in the proportion of one deputy for every 20,000 electors, any fraction above 10,000 being counted as 20,000, and therefore represents the people. It consists of 167 members.

The members of the Council or Chamber of States are elected by the cantons, two members for each canton, and therefore consists of fourty-four members.

By article 89 of the constitution all federal laws and decrees must be voted by both Chambers, although they have still to be subjected to the popular vote, or *referendum*, should 30,000 voters desire it. It is further enacted that the Chambers sit separately, except on certain occasions when they sit together, as for the election of the Federal Council, or Executive Government, the Federal Tribunal, and the Chief of the Federal Army.

At the commencement of each session the Presidents of the two Chambers meet and make arrangements for the distribution of the work of the session between the two Chambers. This work, it may be observed, having been decided on by the Federal Council.

At the first or second sitting each President lays before the Chamber over which he presides the apportionment of the work agreed upon. When, before the two Chambers meet, the Federal Council declares a particular question to be of extreme urgency, the Presidents of the two Chambers, without consulting the Chambers, decide as to priority being given to it, in which case the Presidents are authorized to appoint committees (which is done by means of "bureaux," special parliamentary officials) and to start them on their work.

The absolute equality of the two Chambers is shown by the next article (3), which provides that if the Chambers or if their Presidents, as in the case mentioned in the previous paragraph, cannot agree on the question of priority the Presidents shall decide by drawing lots.

Article 4. When a law or a decree has been discussed by one of the two Chambers, the decision arrived at, signed by the President and Secretary, is communicated to the other Chamber in writing.

If either Chamber at its first meeting decides not to discuss a proposal submitted by the Federal Council, or transmitted by the other Chamber, it must inform the latter of its decision.

If one of the Chambers decides not to take into consideration any Bill or decree submitted to it in the form of a motion, or if after discussion it rejects it, no further action is taken, and the decision is not communicated to the other Chamber.

Article 5. If the decisions of one Chamber do not correspond with those already taken by the other, they are returned to the latter in order that the points at isssue may be discussed.

The fresh discussion is confined to these points, unless, as a result of amendments adopted, another discussion becomes necessary, or unless the representatives of the two Chambers mutually propose one.

The two Chambers follow this course until an agreement is established between them, or until each Chamber decides to abide by its resolutions.

Article 6. When this occurs the differences between them are submitted to a conference at which the united committees of the two Chambers must endeavour to arrive at an understanding. Should the committee of one Chamber be smaller than that of the other, it must be made up to the same number of members.

The conference is presided over by the president of the committee, representing the Chamber which had the priority in the discussion of the measure.

Article 7. The proposal formulated by this conference with the object of eliminating the divergences of opinion is communicated in the first instance to the Chamber which has had the priority with regard to the measure in question.

If the conference does not succeed in formulating a proposal, or if an agreement cannot be come to in the Chambers on the proposal, the project is considered to be thrown out, and can only be considered again by having recourse to the forms laid down by statute for further legislation.

Article 8. When the deliberations are concluded in the two Chambers, laws and decrees of general interest are referred to a revising committee to be drawn up in their final form, and to make any purely formal corrections in accordance with the existing law, the primary object being to secure conformity in the French and German texts. The committee has no power to modify the decisions of the Chambers.

The amended text is returned to the Chambers, and, if approved by them, each Chamber proceeds to the final vote.

This final vote is indispensable even if the project has not been submitted to the revising committee.

If on this final vote the project is rejected by the two Chambers, or by one of them, it is considered abortive, and can only be reconsidered if brought forward in the manner prescribed by statute for further legislation.

It is therefore clear that, both according to the Swiss constitution and the law regulating the position of the two Chambers, there is no Upper Chamber in the sense employed in other countries, and their footing of absolute equality apparently works well, as there is no record of constitutional disputes within the last ten years. The consent of both Chambers is indespensable for the passing of a measure, and in case of disagreement ample opportunity is given for arriving at an understanding. If they nevertheless disagree, the measure has to be abandoned.

The same procedure as that described above is applied to the Budget, which is prepared by the members of the Federal Council in charge of the Finance Department, and is then submitted to both Chambers. Although there is no written rule to that effect, priority is given to each Chamber in alternate sessions, absolute equality between both Chambers being thus maintained. A Budget, however, is never thrown out entirely, as an agreement between the two Chambers is either arrived at or the figures in the Budget are accepted.

UNITED STATES.

No. 17.

Mr. Bryce to Sir Edward Grey.—(Received October 19.)

INTERVALE, NEW HAMPSHIRE, October, 5, 1907.

SIR,—I have the honour to transmit to you herewith a report on the United States' Senate, which has been compiled by Mr. Seeds, Third Secretary in His Majesty's Embassy, in accordance with the instructions contained in your circular of the 10th July last.

I have, etc.,

JAMES BRYCE.

Inclosure in No. 17.

REPORT BY MR. SEEDS ON THE UNITED STATES' SENATE.

In creating a Senate, or Upper Chamber, the framers of the United States' constitution had two main objects in view. It was felt that in a federation of states theretofore sovereign it was necessary to provide a means by which each state could exert its influence as a separate Commonwealth in the National Legislature and enjoy equal representation with any other state, without discrimination in favour of area, wealth, or population. Secondly, the leaders of the convention of 1787 realized the need for creating a legislative body which would be less affected by sudden, and perhaps unreasonable, changes of public opinion than might be a House of Representatives elected directly by the people.

The former of these objects was attained by providing that every state, irrespective of size or population, should send two representatives to the Senate, each of whom was to possess one vote.

In the second place, the constitution laid down that the term of office of senators should be six years (as opposed to the two years' term of members of the House of Representatives), and that the elections for the Second House should be indirect—or, rather, that they should be in the hands of the Legislatures as representing the State Governments.

There being at present forty-five states in the Union, the Senate consists of ninety persons, and is presided over by the Vice-President of the Unites States. This official is not chosen by the Senate, but is elected at the general presidential election. He does not participate in the debates, but directs the order of business, and casts a vote only when the Senate is equally divided.

The Senate, unlike the House of Representatives, all the members of which are elected at the same time every two years, is a permanent body, and has existed continuously since its first creation, one-third of it only being renewed every two years. This was effected by the division of the whole body of senators into three classes in the first Congress. The term of those in the first class, beginning in 1789, expired in 1791, and the term of their successors expired six years afterwards. The term of the second class beginning in 1789, expired in 1793, and that of their successors six years later. The members of the original third class were appointed for six years. This classification is still kept up. At present there are thirty senators in each class, the term of those in the first class expiring on the 3rd March, 1909; in the second, on the 3rd March, 1911; and in the third, who will make their first appearance in the Senate at the opening of the Sixtieth Congress in December of this year, on the 4th March, 1913. When a new state is added to the Union, senators first appointed by it cannot be sure of a full term of six years, as they must be assigned by two of

the three classes, in order to keep them as nearly equal as possible, the class to which each of such senators shall belong being settled by ballot; but after the first assignment the full term of six years is granted to senators coming from a new state.

It is worth nothing that the biennial renewal of a third of the Senate coincides with the meeting of a newly-eleced House of Representatives.

Senators' Qualifications.

The qualifications required by the constitution from a candidate for the post of senator are that he has attained the age of 30, has been a citizen of the United States for nine years, and, at the time of election, is an inhabitant of that state for which he is standing.

Election of Senators.

As regards the election of senators, the constitution lays down that the senators from each state shall be "chosen by the Legislature thereof." The actual method of such elections is formulated in the Revised Statutes (Title II, chapter I, section 15) as follows:—

> "Each House shall openly, by a *viva voce* vote of each member present, name a person for senator in Congress, and the name of the person so voted for who receives a majority of the whole number of votes cast shall be entered on the Journal of that House. . . On the day following . . . the members of the two Houses shall convene in Joint Assembly, and the Journal of each House shall then be read, and if the same person has received a majority of all the votes in each House, he shall be declared duly elected senator; but if the same person has not received a majority of the votes in each House . . . the Joint Assembly shall then proceed to choose, by *viva voce* vote of each member present. a person for senator, and the person, who receives a majority of all the votes. . . shall be declared duly elected. If no person receives such majority on the first day, the Joint Assembly shall meet . . . each succeeding day during the session of the Legislature, and shall take at least one vote until a senator is elected.

Should a vacancy occur at any time when the State Legislature is not in session, the Governor of the state has the power to fill it up until the next meeting of the Legislature.

The aim of the framers of the constitution in providing that the Legislatures, and not the people, should choose the members of the Senate was not only to create a Chamber less directly dependent on the popular vote than the House of Representatives, but also to ensure that the Senate should represent the various State Governments. The plan adopted used to excite the admiration of foreign observers. It is doubtful, however, whether the object aimed at has been perfectly attained, and much criticism has been directed of late years against the mode of senatorial elections. Certainly in some states this method of indirect election has become almost as much a formality as the provisions of the constitution regarding the presidential election. So much so is this the case that there has existed for some time a movement, which would seem to be growing in strength of late, that has for its object the amending of the constitution so as to provide for the direct election of senators by the people. Whether this movement will become strong enough to bring about a change, it is, of course, impossible to foretell. Amendments to the federal constitution for this purpose have, it is true, at various times been submitted to one or other of the Houses of Congress, but the difficulties of carrying any constitutional amendment are

recognized to be almost insuperable. It should be noted, however, that petitions have been addressed to Congress from thirty-one, if not more, states—more than the two-thirds required by the constitution for the sanctioning of an amendment—asking for the submission of an amendment to secure the election of senators by direct vote of the people.

There are, or have been, two different systems by which it has been attempted to render the power of the States Legislatures to elect senators merely nominal. In earlier years the will of the people was often expressed by party state conventions. A notable instance was in 1858, when the Illinois State Democratic convention endorsed Mr. Douglas, and the Republican convention endorsed Abraham Lincoln, for the position of United States' senator. The more modern system is that of primary elections, in which the opinion of the voters of each political party is directly expressed in favour of aspirants previously nominated by party meetings, the State Legislatures simply registering the result of the elections. This system is now in vogue in at least eighteen states, Nevada having been the pioneer, by the enactment, in 1899, of an Act entitled "An Act to secure the election of United States' senators in accordance with the will of the people . . .". In some states, particularly in the Southern States, where one political party is in almost complete control, the system has been put into force through the state committees of the party; in others, recourse has been had to legislation, as in Oregon, the two Dakotas, Missoouri, Illinois and others where primary elections are provided for by statute. Mississippi, by an Act of 1903, abolished all nominating conventions, and provided for the nomination of all elective officials, including United States' senators, by direct primaries. In some states, South Carolina and North Dakota for instance, legislators are subjected by statute to a pledge to abide by the primary elections. By the Oregon law of 1904 candidates for the Legislature are required to sign a pledge that they will, or will not, vote for the senatorial candidate who receives the highest popular vote in the primary. That this system is the most favoured at present is shown by the fact that the last House of Representativss of Pennsylvania passed a Bill to that effect by unanimous vote (though this Bill has not been adopted by the Senate of that state), and by the inclusion of a provision for primary elections in the as yet unratified constitution of the proposed new state of Oklahoma.

In all these cases, of course, candidates are the official selections of the political parties. The state of Nebraska, by its constitution of 1875, endeavoured to put the initiative directly into the hands of the electors, by providing that "the electors may, by ballot, express their preference for some person for the office of United States' senator." This system has, however, not proved satisfactory in the working, and has not been followed by any other state. It may be that the electors, while ready to vote for candidates put forward by their respective parties, and whose names appear on the ballot papers, are reluctant to take upon themselves the responsibility of writing on the ballot paper their own personal selection for the post of senator.

In those states, where the method above described is not in vogue, the "caucus" system prevails. Under this system, which accords more with the provisions of the constitution than does that of primary elections, the political party controlling a majority of the two Houses of the State Legislature meets in joint caucus and selects a candidate whom the whole party is pledged to support.

The necessity for a senatorial candidate to obtain a majority of all the votes in the State Legislature has, it should be added, led to many a delay in cases where there have been several aspirants, none of whom commanded the necessary number of votes. It is not unusual for a state to remain unrepresented for a very considerable time, until the deadlock is removed by the partisans of one or more of the candidates finally throwing in their lot with one of the other parties.

Salaries, etc.

The salary paid to senators has varied from time to time, and stands now at 7,500 dollars (£1,500 approximately) a year. They receive in addition a compensation for travelling expenses to and from their constituencies, calculated on the mileage covered.

No senator may hold any public office under the United States during his term in the Chamber. Under this provision the Administration is not represented in the Senate by Cabinet Ministers or other responsible officials; there are, however, generally one or more senators, standing in intimate though unofficial relations with the Executive, through whom the Administration can express its views.

Powers of the Senate.

The powers of the Senate fall under three heads:—

1. Executive.
2. Judicial.
3. Legislative.

1. The constitution lays down that the President may conclude treaties with other nations only "by and with the advice and consent of the Senate," a majority of two-thirds being necessary. The advice and consent of the Senate are also required as regards appointments of ambassadors, consuls, judges of the Supreme Court, and the higher officials of the United States.

The powers of the Senate in respect to the ratification of all treaties proposed by the Chief Executive have always been important, and have increased in importance since the United States has to a certain extent abandoned its former policy of complete abstention from international politics in other continents but America, and they constitute an effective check on the actions of the Executive Department of the Government, which is concerned with the management of foreign affairs. It is no light task to insure that, in a House divided into two strong parties, and in which the majority is not necessarily on the side of the Executive the principle of any treaty may so recommend itself generally as to obtain ratification by a majority of two-thirds. The determined opposition of but a few senators is all that is required for the formation of a group whose action will lead either to the complete wrecking of a proposed treaty or to the addition of such emendatory articles as may materially alter the scope of the agreement, and render it unacceptable to the other Contracting Power, The chief factor in the situation is the Committee on Foreign Relations, before which all measures relating to foreign affairs must first come up for discussion, and that body, which generally includes some of the ablest members of the Senate, may almost be considered a sort of Second Department of State, or Foreign Office.

The control of the foreign policy of the United States is therefore effectively in the hands of the Senate, which is, it may be added, not less jealous than heretofore of anything which it regards as an attempted curtailment of its rights by the Executive. As an instance of this, one may quote the attitude taken up by the Senate in regard to the proposed Arbitration Treaties during the closing decade of last century; opposition to those measures was defended on the ground that the Senate could not abnegate a power given it by the constitution, and may have been largely prompted by the idea that, by consenting to such treaties, the Senate would cede a certain portion of its rights to the Executive.

The right of approving appointments, vested in the Senate by the constitution is highly valued by that body, which now exerts an effective control over the action of the Executive in selecting persons for the higher federal offices, and not infrequently prevents the President from choosing those whom he may personally prefer.

All discussions respecting treaties and appointments are carried on in secret, so-called executive sessions.

2. "The Senate shall have the sole power to try all impeachments" (section 3 of the constitution). In such cases the accusing party is the House of Representatives, in whom is invested the sole power of impeachment, and for the conviction of the accused a vote of two-thirds of the senators present is necesary. When sitting for such a purpose, they are "on oath of affirmation," and should the impeached person be the President of the United States, the Chamber is under the presidency of the Chief Justice. Judgment in such cases does not extend further than to removal from, and disqualification to hold, office under the United States, but the convicted person is liable to indictment before a legal tribunal.

Resort has but rarely been had to this method of proceeding, the most notable case being that of the impeachment of President Andrew Johnson, which resulted in an acquittal, less than two-thirds having voted to convict.

3. In respect of their legislative functions, the Senate and the House of Representatives are inter-dependent and possess equal powers. Bills may originate in either Chamber, but acquire the force of the law only upon obtaining the assent of the other House, and the approval of the President.

Where each chamber has equal legislative powers, and may either reject in its entirety a Bill proposed by the other, or add to it amendments which may not be acceptable to the House where the measure originated, frequent disagreements must be expected. No provision is laid down in the constitution to govern such cases, but the practice of Congress is to settle differences by conferences between members representing each House. The system adopted is, briefly, the following:—

The House of Representatives has, for instance, passed up to the Senate a Bill, which is returned by the latter Chamber with amendments attached. The House may then either approve the Bill in its amended state, or else send it back to the Senate, disagreeing with the proposed amendments, and adhering to its own view. Should the Senate not alter its decision and accept the view of the House, the former will proceed to insist upon its amendments and propose a conference. Each House then appoints three of its members, and these six constitute a conference committee. Should the committee fail to agree, another conference is usually asked for and arranged; should it, however, reach an agreement, a report is drawn up, which is presented by the conference to their respective Houses. The committee's report, which, as might be expected, generally takes the form of a compromise, is then discussed by each House, and may be either approved or rejected, but not amended.

Continued disagreement leads to the extinction of the measure at the end of the Congress.

It may safely be said that this has so worked in practice as not to involve the loss of any large percentage of Bills, the two Houses usually sinking their minor differences when an important measure is at stake. The criticism is, however, often made that the numerous debates, unavoidable under this system, are apt to entail annoying delays. On the other hand, it would be hard to find a plan which could more effectively safeguard the rights of both Houses and obviate the dangers of deadlocks, so often an unfortunate feature of the bi-cameral system.

It should be noted that constitutional disputes between the two Houses of Congress are avoided by the fact that all questions relating to the interpretation of the Constitution are, whenever they arise in legal proceedings, determined by the national courts of law, with the Supreme Court of the United States as the final Court of Appeal, and that neither House of Congress would think of contesting the soundness of a judgment pronounced by the courts. The powers of Congress are strictly defined by the constitution, an instrument in virtue of which alone Congress exists, and whose provisions may not be contested or exceeded by the Legislature. That body has not, therefore, the right to claim to determine the interpretation of the Constitution, which is a matter for the judicial tribunals of the land to decide. One House may, of course,

propose a measure which, in the opinion of the other Chamber, in unconstitutional; the ensuing disagreement is then referred to a conference between the two Houses in the manner above described, when the question at issue may either be amicably settled or dropped entirely. Should the measure be passed by Congress and approved by the President, it is yet liable to be declared unconstitutional by a federal court on any particular case arising under the Act being brought up for legal adjudication.

Financial Powers.

It has been stated above that Bills may originate in either House of Congress. One exception is, however, made in the constitution, namely, that "all Bills for raising revenue shall originate in the House of Representatives, but the Senate may propose or concur with amendments as on other Bills."

In considering the question as to what control the Senate is able, under this provision, to exert over the national finances, the general powers of Congress in this respect, as opposed to those of the Executive Departments, must not be forgotten. The Secretary of the Treasury does, it is true, furnish Congress annually with a statement of the national revenue and expenditure, and he also lays before the Legislature estimates for the coming year. The great power of Congress, however, arises from the fact that the Cabinet Minister's estimates are not necessarily taken as a guide in fixing the sums to be raised and to be allotted to the different Government Departments. Congress, or rather its Finance Committees, can summon the Secretary of the Treasury to give evidence, but the Legislature is unfettered by the presence in its Assembly of a Cabinet Minister armed by the Government with definite financial proposals. The national finances being thus under the sole control of Congress, and, of the two Chambers which compose that body, the House of Representatives having the privilege of originating all Bills for raising revenue, the actual powers of the Senate in this connection remain to be considered.

Of the right to propose amendments to financial Bills received from the House, the Senate avails itself freely. The procedure followed with regard to such Bills is that adopted in respect to all other measures; as soon as they are received by the Senate they are immediately referred to the Finance Committees for consideration, whence they emerge with the addition of amendments, and come up for general discussion. The committees' amendments may be accepted or not; in any event, further amendments may be added, and the Bills are returned to the House of Representatives bearing effectively the imprint of the Senate. Then follow generally disagreement on the part of the House, a conference, and the final passing of a compromise measure.

The following tables are interesting in this connection, as showing, with regard to each of the regular Appropriation Bills passed by the last two Congresses, the amount of each Bill as it passed the House of Representatives, the amount as it passed the Senate, and the amount as it became a law.

58TH CONGRESS, 1ST SESSION.

Title of Bill.	Passed House.	Passed Senate.	Law 1904-1905.
	$ cts.	$ cts.	$ cts.
Agriculture	5,711,240 00	6,072,380 00	5,902,040 00
Army	75,089,957 88	77,819,131 76	77,070,300 88
Diplomatic and Consular	1,995,800 69	2,073,100 69	2,020,100 69
District of Columbia	10,194,477 60	11,382,904 00	11,018,540 00
Fortification	7,131,192 00	8,163,292 00	7,518,192 00
Indian	7,642,192 35	10,511,405 73	9,447,961 40
Legislative, etc	28,288,655 22	28,734,533 22	28,558,258 22
Military Academy	955,579 26	975,966 84	973,947 26
Navy	97,524,540 94	99,039,434 59	97,505,140 94
Pension	138,150,100 00	138,360,700 00	138,360,700 00
Post Office	170,376,088 75	173,550,398 75	172,545,998 75
River and Harbour	3,000,000 00	3,100,000 00	3,000,000 00
Sundry, Civil	56,248,306 11	58,906,400 15	57,840,211 34
Total	602,308,130 20	618,689,647 73	611,761,391 48
Urgent Deficiency	11,026,195 17	16,390,458 24	16,102,157 64
Deficiency	10,401,620 76	11,491,541 72	10,669,732 54
Total	623,735,946 13	646,571,647 69	638,533,281 66

58TH CONGRESS, 2ND SESSION.

Title of Bill.	Passed House.	Passed Senate.	Law, 1005-1906.
	$ cts.	$ cts.	$ cts.
Agriculture	6,769,710 00	7,027,590 00	6,882,690 00
Army	69,310,821 64	70,749,681 64	70,396,631 64
Diplomatic and Consular	2,107,047 72	2,156,017 72	2,123,047 72
District of Columbia	9,456,474 00	9,941,765 62	9,801,197 62
Fortification	6,747,893 00	6,747,893 00	6,747,893 00
Indian	7,397,446 02	10,309,578 29	7,923,814 34
Legislative, etc	28,758,189 84	29,193,062 06	29,136,752 06
Military Academy	669,233 38	678,158 38	673,713 38
Navy	99,914,359 94	100,339,079 94	100,336,679 94
Pension	138,250,100 00	138,250,100 00	138,250,100 00
Post Office	180,717,413 75	181,047,093 75	181,022,093 75
River and Harbour	17,021,875 41	19,803,156 41	18,181,875 41
Sundry, Civil	67,292,080 66	67,739,350 66	66,813,450 66
Total	632,412,635 36	643,982,527 47	638,289,939 52
Urgent Deficiency	247,000 00	262,500 00	262,500 00
Deficiency	31,236,082 04	29,784,466 82	31,420,788 72
Total	663,895,717 40	674,029,494 29	669,973,228 24

SESSIONAL PAPER No. 246

59TH CONGRESS, 1ST SESSION.

Title of Bill.	Passed House.	Passed Senate.	Law, 1906-1907.
	$ cts.	$ cts.	$ cts.
Agriculture	7,481,440 00	7,847,700 00	9,930,440 00
Army	68,664,480 38	73,042,306 37	71,817,165 08
Diplomatic and Consular	2,731,969 17	3.156,094 17	3,091,094 17
District of Columbia	8,883,173 15	9,009,961 16	10,138,672 16
Fortification	4,838,993 00	5,278,993 00	5,053,993 00
Indian	8,109,369 63	10,376,542 64	9,260,599 98
Legislative, etc.	29,310,193 30	29,815,559 30	29,681,919 30
Military Academy	1,663,115 17	1,669,427 67	1,664,707 67
Navy	100,609,633 27	103,117,670 27	102,091,670 27
Pension	140,245,500 00	140,245,500 00	140,245,500 00
Post Office	191,487,568 75	192,485,868 75	191,695,998 75
River and Harbour			
Sundry, Civil	94,587,070 32	102,591,184 32	98,589,770 32
Total	658,612,506 14	678,636,807 65	673,210,530 70
Isthmian Canal Deficiency	11,000,000 00	11,000,000 00	11,000,000 00
Urgent Deficiency	15,211,737 44	16,459,799 99	16,270,332 09
Urgent Deficiency, additional	136,646 42	317,425 51	274,925 51
Deficiency	10,864,959 95	11,597,498 68	11,583,777 85
Total	695,825,849 95	718,011,531 83	712,339,566 15

59TH CONGRESS, 2ND SESSION.

Title of Bill.	Passed House.	Passed Senate.	Law, 1907-1908
	$ cts.	$ cts.	$ cts.
Agriculture	8,108,010 00	9,457,810 00	9,447,290 00
Army	72,291,876 89	81,787,610 54	78,634,582 75
Diplomatic and Consular	3,085,477 72	3,071,277 72	3,092,333 72
District of Columbia	10,037,234 63	10,766,562 63	10,440,598 63
Fortification	5,411,8[illegible]3 80	7,453,589 00	6,898,011 00
Indian	8,233,476 33	12,876,110 76	10,125,076 15
Legislative, etc.	30,630,383 80	30,847,533 80	32,126,333 80
Military Academy	1,913,983 42	1,947,383 42	1,929,703 42
Navy	95,027,481 50	101,108,007 50	98,958,507 50
Pension	137,734,000 00	146,143,000 00	146,143,000 00
Post Office	209,716,802 00	212,234,393 00	212,091,193 00
River and Harbour	35,396,612 00	40,123,908 00	37,108,083 00
Sundry, Civil	104,531,314 13	115,416,161 30	119,769,211 30
Total	722,118,535 42	773,233,347 67	757,763,924 27
Urgent Deficiency	581,500 00	581,500 00	581,500 00
Urgent Deficiency, additional	264,650 00	1,329,650 00	1,329,650 00
Deficiency	9,918,698 74	11,262,375 36	10,497,848 91
Total	732,883,384 16	786,406,873 03	770,172,923 18

A glance at these tables will show that nearly every Appropriation Bill was returned to the House of Representatives with considerable amendments by the Senate, the amount proposed by the House remaining unaltered in only five cases.

Secondly, it will be seen that the Senate amendments in the overwhelming majority of cases were directed towards increasing the amount of appropriations.

Thirdly, a comparison of the amounts finally approved and those originally voted by the two Houses is distinctly in favour of the Senate, the amount voted by compromise measure being in most cases nearer to the figure proposed by the Senate than to that fixed by the House.

Lastly, the many Deficiency Bills which were found to be necessary might seem to prove the wisdom of the higher appropriations proposed by the Senate, but it may be presumed that, in some cases at least, the deficiency was due to expenditure which could not be foreseen.

It is clear, therefore, that the advantage resting with the House of Representatives, in virtue of its privilege of originating financial Bills, is effectively counterbalanced by the free exercise of the Senate's right to amend such measures. That the two Houses of Congress jointly have supreme control over the national finances, and are less fettered in that respect by the policy of the Administration than most European Legislatures, is certain. The question as to which House of the two has the greater power is not so easily decided, and must be considered in connection with the larger question as to the relations between the two Houses generally.

Relations between the two Houses of Congress.

The constitution undoubtedly aimed at the creation of a bi-cameral Legislature, which the two Houses, except for the executive and judicial rights vested in the Senate, and for the privilege of initiating financial measures given to the House of Representatives, should enjoy equal powers in every respect, and the question naturally arises how far this aim has been attained in practice. Granted that the constitutional powers of the two Houses are equal, it remains to be considered whether either Chamber possesses advantages over the other such as are conferred by a longer term of office, a more convenient size, or the presence in its ranks of more experienced and influential legislatore.

On examining the constitution and actual composition of the two Houses it will be seen that all these three advantages rest with the Senate:—

Firstly, the House of Representatives, with its short life of two years, is at a disadvantage when opposed to a comparatively permanent body like the Senate. The effect produced by this disparity in length of term is particularly noticeable towards the end of a session, when Congress stands face to face with disagreements between the two Houses in respect of contentious measures, including, perhaps, Appropriation Bills, the passage of which is necessary for the due carrying on of Government. Persistence in disagreement would lead to the extinction of the measures at the close of the Congress. This eventuality is, however, not contemplated by senators and members of the House of Representatives from the same point of view. The Senate as a body can face with comparative equanimity the temporary failure of a Bill, knowing that it will shortly have to deal with a newly elected House of Representatives, which may prove more amenable; also, the great majority of senators, whose terms of office have yet two or four more years to run after the close of the actual Congress, are not affected, as are the members of the House at the end of the first session of a Congress, by the prospect of facing new elections. In this connection, therefore, the Senate possesses a distinct advantage over the House, and even were all other conditions equal, the former body would, in the very nature of things, be generally able to wear out the latter.

In the second place, the difference in numbers between the two Houses—90 senators as against 386 representatives—is a factor in favour of the Senate, the

House of Representatives being a more weakly-organized body as compared with the other Chamber whose smaller size gives it a certain compactness and solidarity, Senators have greater opportunities of debate, and are able to devote more attention, both individually and as a body, to the measures coming before them, as compared with the representatives, in whose Chamber most of the work is done by the numerous committees and not by the House as a whole. The gain to the Senate in this respect is, perhaps, not so much practical as moral, but it is none the less real, and lends a certain weight to its decisions.

Lastly, the Senate does largely attract into its ranks the best political talent that the nation produces. The leading members of the State Legislatures, State Governors, and prominent politicians generally, all look to a seat in the United States Senate as their ultimate goal. Nor does the Senate exercise any less attraction on members of the House of Representatives, nearly forty of those composing the Senate in the recently expired fifty-ninth Congress having once been members of the other Chamber. A glance at the biographical notices of senators in the "Congressional Directory" is sufficient to show the great range of experience in public affairs possessed by the members of that body, the number of those who have neither sat in State Legislatures nor held state or federal office being exceedingly small.

That the office of senator should be greatly sought after is the natural consequence of the more extensive constitutional powers of that Chamber, and the personal prestige which the longer term of office and the greater opportunities of individual distinction confer, as compared with the House of Representatives. The House does not enjoy the executive rights so highly prized by senators; the assent of representatives is not necessary to the ratification of a treaty, nor are their powers of patronage as great as those exercised by members of the other House. Secondly, personal pre-eminence, both in Congress and in the eyes of the nation, is not easily attained in a House of nearly 400, especially under a system by which the individual members are fully occupied by their work in the committees, whose proceedings, besides being limited to one particular branch of business, are private and are not published in the press. A senator, on the other hand, is only one among ninety; he is better able to know and to be known by his colleagues. If a novice, he has at the very least six years before him in which to gain parliamentary experience and to make his mark, as against the two years of the representative; his committee work, though considerable, yet leaves him time to avail himself of the greater opportunities of distinguishing himself in debate, afforded by the smaller size of the House and the absence of the time restriction on speeches which has necessarily to be imposed on the more numerous representatives. The greater personal distinction that the senator enjoys, as compared with the representative, makes it generally easier for him to secure re-election at the end of his term. More than half of the senators who sat in the fifty-ninth Congress were, according to the "Directory," serving their second term of office, and even allowing for those whose first term did not extend to the full six years, owing to their having been primarily elected to fill vacancies, it may be said that on an average nearly half of the senators serve at least two terms, that is, twelve years. A representative's term, being two years, it would be necessary for him to be elected six times in order to attain to the same length of service; only sixty-three representatives, however, out of the 386 composing the last House, had succeeded in doing so. The parliamentary experience which senators bring with them on joining that Chamber is shown by the fact that, out of the forty senators who were serving their first term in the last Congress, nineteen had been formerly members of the House of Representatives, and had sat in that House for periods varying from one to nine Congresses.

For these reasons, then, the Senate may be considered to be a more powerful body than the House of Representatives, its comparative permanence enabling it to hold out by its opinions longer than the more ephemeral House, and the recognized political experience of its members lending it superior prestige with the people at large. This

superiority does not, however, by any means allow the Senate entirely to override the other Chamber, nor is it so marked as to have made the House at any time undertake what may be called a political campaign to have the powers of the other House reduced. The present system under which senators are elected being ultimately, though indirectly, popular, makes it difficult to accuse them of being a non-representative body, much of their strength lying in the fact that they are so elected and have the weight of great communities behind them.

Such attacks as are made upon that body—and these have of late years been numerous—come from outside, and are prompted by a feeling of dislike to the position it holds, and a distrust of the motives by which many of its members are alleged to be actuated. To express an opinion, however, upon the merits of the changes proposed, to discuss the question whether the Senate has, or has not, encroached upon the powers of the Executive, to examine the charges now frequently brought against the Senate of being affected by plutocratic tendencies, all of these matters are of a nature too controversial and too much involved with current politics to be proper for a report of this nature.

WILLIAM SEEDS.

October 5, 1907.

BRITISH COLONIES (LEGISLATURE).

RETURN showing for each Legislature in the Self-governing Dominions:—

(1) The composition of the Second Chamber and the method of nomination or election; (2) to powers or disabilities with regard to:—

(*a*) Finance, and
(*b*) General legislation.

(3) The provisions, if any, for the adjustment of the differences which may arise between the two Chambers with regard to:—

(*a*) Finance, and
(*b*) General legislation.

THE DOMINION OF CANADA.

Under the British North America Act, 1867, and amending legislation, the Senate of the Dominion of Canada consists of 87 members, of whom 24 represent Ontario, 24 represent Quebec, 10 represent Nova Scotia, 10 represent New Brunswick, 4 represent Prince Edward Island, 3 represent British Columbia, 4 represent Manitoba, 4 represent Saskatchewan, and 4 represent Alberta.

The senators are summoned by the Governor-General in the King's name by instrument under the Great Seal of Canada and hold their places for life.

The qualifications of a senator are as follows:—

(1) He shall be of the full age of 30 years;

(2) He shall be either a natural-born subject of the King or a subject of the King naturalized by an Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of one of the provinces of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, before the Union, or of the Parliament of Caanada after the Union;

(3) He shall be legally or equitably seized as of freehold for his own use and benefit of lands or tenements held in free and common socage, or seized or possessed for his own use and benefit of lands or tenements held in Franc-alleu or in Roture, within the province for which he is appointed, of the value of four thousand dollars over and above all rents, dues, debts, charges, mortgages, and incumbrances due or payable out of or charged on or affecting the same;

(4) His real and personal property shall be together worth four thousand dollars over and above his debts and liabilities;

(5) He shall be resident in the province for which he is appointed;

(6) In the case of Quebec he shall have his real property qualification in the electoral division for which he is appointed, or shall be resident in that division.

A senator may, however, resign; and his place shall be become vacant in any of the following cases:—

(1) If for two consecutive sessions of the Parliament he fails to give his attendance in the Senate;

(2) If he takes an oath or makes a declaration or acknowledgment of allegiance, obedience or adherence to a foreign Power or does an act whereby he becomes a subject or citizen, or entitled to the rights or privileges of a subject or citizen, of a foreign Power;

(3) If he is adjudged bankrupt or insolvent, or applies for the benefit of any law relating to insolvent debtors, or becomes a public defaulter;

(4) If he is attainted of treason or convicted of felony or of any infamous crime;

(5) If he ceases to be qualified in respect of property or of residence; provided, that a senator shall not be deemed to have ceased to be qualified in respect of residence by reason only of his residing at the seat of the Government of Canada while holding an office under that Government requiring his presence there.

2. It is provided by section 53 of the British North America Act that "Bills for appropriating any part of the public revenue, or for imposing any tax or impost, shall originate in the House of Commons." There is no other provision limiting the power of the Senate with regard either to finance or to general legislation.

3. The British North America Act does not contain any provision expressly stated to be intended to be for the adjustment of differences between the Senate and the House of Commons whether with regard to finance or to general legislation. But it is provided by section 26 that "if at any time, on the recommendation of the Governor General, the King thinks fit to direct that three or six members to be added to the Senate, the Governor General may, by summons to three or six qualified persons, as the case may be, representing equally the three divisions of Canada, add to the Senate accordingly." The three divisions referred to are Ontario; Quebec; the Maritime Provinces, viz., Nova Scotia, New Brunswick, and Prince Edward Island. Section 27 provides that "in the case of such addition being at any time made, the Governor General shall not summon any person to the Senate except on a further like direction by the King on the like recommendation, until each of the three divisions of Canada is represented by twenty-four senators and no more."

QUEBEC.

Under the Provincial Constitution Acts the Legislative Council of Quebec consists of 24 members who hold their seats for life, and who are appointed by the Lieutenant-Governor by instrument under the Great Seal of the province, one for each of the 24 divisions of the province.

No person can be a Legislative Councillor who holds an office of profit under the Crown in the province, except a ministerial office, or who undertakes or executes or has directly or indirectly any contract with the Provincial Government under which money is to be paid. This does not apply to a man who is merely a shareholder in an incorporated company, with the exception of a company having the execution of any public works.

2. The only provision affecting the powers of the Legislative Council is that contained in section 53 of the British North America Act, which is applied by section 90 to the provinces, and which provided that "Bills for appropriating any part of the public revenue or for imposing any tax or impost shall originate" in the Lower House.

3. No provision exists for the adjustment of differences between the two Chambers of the Legislature of Quebec.

NOVA SCOTIA.

Under the Provincial Constitution Acts the Legislative Council of Nova Scotia consists of 21 members nominated for life by the Lieutenant-Governor in Council. No person can be appointed who is a member of the Federal Parliament, or holds certain specified offices under the Provincial Government, or is declared by the judgment of a court of competent jurisdiction to be disqualified from being elected to or sitting in the House of Commons of Canada by reason of any violation of the law of Canada relating to elections or to the trial of controverted elections, so long as such disqualification lasts. A seat is vacated by two sessions' consecutive absence from the Council without the consent of the Lieutenant-Governor in Council.

2. The only provision affecting the powers of the Legislative Council is that contained in section 53 of the British North America Act, which is applied by section 90 to the provinces, and which provides that Bills for appropriating any part of the public revenue or for imposing any tax or impost shall originate in the Lower House.

3. No provision exists for the adjustment of differences between the two Chambers of the Legislature of Nova Scotia.[1]

NEWFOUNDLAND.

The Legislative Council of Newfoundland consists of members nominated and appointed by the King under the Sign Manual and Signet, or provisionally appointed by the Governor and afterwards confirmed by His Majesty. The total number of the said Legislative Council for the time being resident within Newfoundland shall not at any time by such provisional appointments be raised to a greater number on the whole than 15. The number of members who can be appointed by His Majesty is not limited in any way, and at present the Council contains 21 members. Every member holds his place during the King's pleasure and may be removed by any instruction or warrant issued by His Majesty under the Sign Manual and Signet, and with the advice of the Privy Council.

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[1] NOTE.—There are no second Chambers in the other Canadian Provinces.

2. By No. 249 of the Rules of the House of Assembly adopted at the first session of the 16th Assembly and amended in the fifth session of the said Assembly, it is provided that "all aids and supplies and aids to His Excellency in Legislature are the sole gifts of the Assembly; and all Bills for the granting of any such aids and supplies ought to begin with the Assembly; and it is the undoubted and sole right of the Assembly to direct, limit, and appoint in such Bills the ends, purposes, considerations, conditions, limitations, and qualifications of such grants; which ought not to be changed or altered by the Legislative Council." But the House will not insist on its privileges in the following cases of Bills brought to the House from the Legislative Council, or returned to the House by the Legislative Council with amendments, whereby any pecuniary penalty, forfeiture, or fee shall be authorized, imposed, appropriated, regulated, varied, or extinguished:—

(1) When the object of such pecuniary penalty or forfeiture is to secure the execution of the Act, or the punishment or prevention of offences;

(2) Where such fees are imposed in respect of benefit taken or service rendered under the Act, and in order to the execution of the Act, and are not made payable into the treasury or exchequer, or in aid of the public revenue, and do not form a ground of public accounting by the parties receiving the same, either in respect of deficit or surplus; or

(3) When such a Bill shall be a private Bill. Nor will the House insist on its privileges with regard to any clauses in Private Bills sent down from the Legislative Council which relate to tolls or charges for services performed and are not in the nature of a tax.

3. There is no legislative provision for the settlement of disagreements between the two Houses, whether with regard to matters of finance or other questions. But there is no limitation on the power of the Crown to add to the numbers of the Upper House.

COMMONWEALTH OF AUSTRALIA.

Under the constitution of the Commonwealth the Senate of the Commonwealth of Australia is composed of senators for each state directly chosen by the people of the state voting as one electorate.

Until the Parliament otherwise provides, there shall be six senators for each original state. The Parliament may make laws increasing or diminishing the number of senators for each state, but so that equal representation of the several original states shall be maintained, and that no original state shall have less than six senators. The senators are chosen for a term of six years.

The senator must be of the full age of 21 years, and must be an elector entitled to vote at the election of members of the House of Representatives, or a person qualified to become such elector, and must have been for three years at least a resident within the limits of the Commonwealth as existing at the time that he is chosen. He must be a subject of the King, either natural-born or for at least five years naturalized under a law of the United Kingdom, or of a colony which has become or becomes a State, or of the Commonwealth, or of a State.

"Any person who—

(i) Is under any acknowledgment of allegiance, obedience, or adherence to a foreign Power, or is a subject or a citizen or entitled to the rights or privileges of a subject or a citizen of a foreign Power; or

"(ii) Is attainted of treason, or has been convicted and is under sentence, or subject to be sentenced, for any offence punishable under the law of the Commonwealth or of a State by imprisonment for one year or longer; or

"(iii) Is an undischarged bankrupt or insolvent; or

"(iv) Holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonweaalth; or

"(v) Has any direct or indirect pecuniary interest in any agreement with the public service of the Commonwealth otherwise than as a member and in common with the other members of an incorporated company consisting of more than 25 persons;

"shall be incapable of being chosen or of sitting as a senator."

"But subsection iv does not apply to the office of any of the King's Ministers of State for the Commonwealth, or of any of the King's Ministers for a State, or to the receipt of pay, half-pay, or a pension by any person as an officer or member of the King's navy or army, or to the receipt of pay as an officer or member of the naval or military forces of the Commonwealth by any person whose services are not wholly employed by the Commonwealth."

The qualification of electors is extended to adult British subjects of either sex who have lived in Australia for six months continuously. Aboriginal natives of Australia, Asia, Africa, or the islands of the Pacific except New Zealand, cannot vote at Federal elections unless they have acquired a right to vote at elections for the Lower House of a State Parliament. Each elector has only one vote.

2. The powers of the Senate with regard to finance are restricted by section 53 of the constitution as follows:—

"Proposed laws appropriating revenue or moneys, or imposing taxation, shall not originate in the Senate, but a proposed law shall not be taken to appropriate revenue or moneys, or to impose taxation, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand or payment or appropriation of fees for licences, or fees for services under the proposed law.

"The Senate may not amend proposed laws imposing taxation, or proposed laws appropriating revenue or moneys for the ordinary annual services of the Government.

"The Senate may not amend any propose law so as to increase any proposed charge or burden on the people.

"The Senate may at any stage return to the House of Representatives any proposed law which the Senate may not amend, requesting, by message, the omission or amendment of any items or provisions therein; and the House of Representatives may, if it thinks fit, make any of such omissions or amendments, with or without modifications.

It is also provided that laws which appropriate revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation; that laws imposing taxation shall deal only with the imposition of taxation, and any provision therein dealing with any other matter shall be of no effect.

Laws imposing taxation, except laws imposing duties of Customs or of Excise, shall deal with one subject of taxation only; but laws imposing duties of Customs shall deal with duties of Customs only, and laws imposing duties of Excise shall deal with duties of Excise only.

In all other matters except those mentioned in section 53 of the constitution, the Senate has equal power with the House of Representatives.

3. There are no special provisions for the adjustment of differences which may arise between the Senate and the House of Representatives with regard to Finance. In any case of difference, the procedure laid down in section 57 of the constitution applies.

"If the House of Representatives passes any proposed law, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, and if after an interval of three months the House of Representatives, in the same or the next session, again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor General may dissolve the Senate and the House of Representatives simultaneously. But such dissolution shall not take place within six months before the date of the expiry of the House of Representatives by effluxion of time.

"If after such dissolution the House of Representatives again passes the proposed law, with or without any amendments which have been made, suggested, or agreed to by the Senate, and the Senate rejects or fails to pass it, or passes it with amendments to which the House of Representatives will not agree, the Governor General may convene a joint sitting of the members of the Senate and of the House of Representatives.[1]

"The members present at the joint sitting may deliberate and shall vote together upon the proposed law as last proposed by the House of Representatives, and upon amendments, if any, which have been made therein by one House and not agreed to by the other, and any such amendments which are affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives shall be taken to have been carried; and if the proposed law, with the amendments, if any, so carried is affirmed by an absolute majority of the total number of the members of the Senate and House of Representatives, it shall be taken to have been duly passed by both Houses of the Parliament, and shall be presented to the Governor General for the King's assent."

Special provision is made for the case of differences between the two Houses, with regard to the amendment of the Constitution, by section 128 of the Constitution, which is as follows:—

"This Constitution shall not be altered except in the following manner:—

"The proposed law for the alteration thereof must be passed by an absolute majority of each House of the Parliament, and not less than two nor more than six months after its passage through both Houses, the proposed law shall be submitted in each state to the electors qualified to vote for the election of members of the House of Representatives.

"But if either House passes any such proposed law by an absolute majority, and the other House rejects or fails to pass it, or passes it with any amendment to which the first-mentioned House will not agree, and if after an interval of three months the first-mentioned House in the same or the next session again passes the proposed law by an absolute majority with or without any amendment which has been made or agreed to by the other House, and such other House rejects or fails to pass it, or passes it with any amendment to which the first-mentioned House will not agree, the Governor General may submit the proposed law as last proposed by the first-mentioned House, and, either with or without any amendments subsequently agreed to by both Houses, to the electors in each State qualified to vote for the election of the House of Represntatives.[2]

"When a proposed law is submited to the electors the vote shall be taken in such manner as the Parliament prescribes. But until the qualification of

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[1] Under the constitution, the number of members of the House of Representatives, must be as nearly as possible, double that of the Senate. At present the Senate has 36, the House of Representatives 75 members.

[2] At present the electorate for the Senate and the House of Representatives is the same; but if there is any difference, the electorate for the Lower House will be that to which the law is referred.

electors of members of the House of Representatives becomes uniform throughout the Commonwealth[1], only one-half the electors voting for and against the proposed law shall be counted in any state in which adult suffrage prevails.

"And if in a majority of the states a majority of the electors voting approve the proposed law, and if a majority of all the electors voting also approve the proposed law, it shall be presented to the Governor General for the Queen's assent.

"No alteration diminishing the proportionate representation of any state in either House of the Parliament, or of the minimum number of representatives of a state in the House of Representatives, or increasing, diminishing, or otherwise altering the limits of the state, or in any manner affecting the provisions of the constitution in relation thereto, shall become law, unless the majority of the electors voting in that state approve the proposed law."

NEW SOUTH WALES.

Under the Constitution Act of 1855, and amending Acts, the Legislative Council of New South Wales consists of persons unlimited in number—at present under 60—summoned by the Governor by instrument under the Great Seal of the State.

A legislative councillor must be of the full age of 21, and a natural-born subject of His Majesty, or naturalized in Great Britain or in New South Wales, and must not be a public contractor except as member of a company exceeding twenty persons in number, or a member of either House of the Federal Parliament. No less than four-fifths of the members so summoned shall consist of persons not holding any office of emolument under the Crown; but officers of His Majesty's sea and land forces on full or half-pay, and retired officers on pensions, shall not be deemed to be persons holding an office of emolument under the Crown within the meaning of this section.

Members of the Legislative Council hold their seats for the term of their natural lives, but they may resign their seats, and their seats become vacant in the following cases:—

"If any Legislative Councillor:—

(*a*) Fails for two successive sessions of the Legislature to give his attendance in the Legislative Council, unless excused in that behalf by the permission of His Majesty or of the Governor, signified by the Governor to the Legislative Council; or

(*b*) Takes any oath or makes any declaration or acknowledgment of allegiance, obedience, or adherence to any foreign prince or Power; or

(*c*) Does, concurs in, or adopts any act whereby he may become a subject or citizen of any foreign State or Power, or whereby he may become entitled to the rights, privileges, or immunities of a subject or citizen of any foreign State or Power; or

(d) Becomes bankrupt, or takes the benefit of any law relating to insolvent debtors; or

(*e*) Becomes a public contractor or defaulter; or

(*f*) Is attainted of treason, or convicted of felony or infamous crime."

2. The only provision restricting the power of the Legislative Council with regard to legislation is the proviso contained in section 5 of the New South Wales Act, No. 32 of 1902, under which all Bills "for appropriating any part of the public revenue,

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[1] This is now the case.

or for imposing any new rate, tax, or impost shall originate in the Legislative Assembly."

3. There are no legal provisions for the adjustment of differences which may arise between the Legislative Council and the Legislative Assembly, whether with regard to matters of finance or to general legislation, but the number of the Upper House is not limited, and the Governor has power to add members to such extent as he thinks fit.

VICTORIA.

The Legislative Council of Victoria consists of 34 members who are elected for 17 provinces, two for each province. Members hold office for six years, but one member for each province retires every third year, unless there is a dissolution of the Council, in which case one-half of the members hold their seats for three years only.

A member must be of the full age of 30 years and a natural-born subject of His Majesty, or who has naturalized for ten years previous to election, and has resided during that period in Victoria. He must also for one year previous to the election have been legally or equitably seized of or entitled to an estate of freehold in possession for his own use and benefit of lands and tenements in Victoria of the annual value of 50*l.* above all charges and incumbrances affecting the same, other than any public or parliamentary tax, or municipal, or other rate or assessment. No person can become a member who is—

(1) A judge of any court of Victoria;
(2) A minister of religion;
(3) Attainted of any treason, or convicted of any felony or infamous offence within any part of His Majesty's dominions;
(4) An uncertificated bankrupt or insolvent;
(5) A public contractor, except in a partnership of more than twenty persons;
(6) A member of the Legislative Assembly; or
(7) Of the Commonwealth Parliament; or
(8) Who is insane; or
(9) A Government officer other than a Minister.

A member may resign his seat, and his seat becomes vacant if he—

(1) Ceases to be possessed of the property qualification; or
(2) Is absent for one entire session without the leave of the Council;
(3) Takes an oath of allegiance to any foreign Power;
(4) Becomes insolvent, attainted of treason, or a public defaulter, or commits a felony;
(5) Becomes insane;
(6) Becomes concerned in a public contract, except as a member of a partnership of more than twenty persons; or
(7) Accepts an office of profit under the Crown, except as Minister or as President of the Council, or Chairman of Committees.

Electors are qualified—

(1) By owning the freehold or being mortgagor or mortgagee in possession, or in the receipt of the rents or profits of property situate in one and the same province rated at not less than 10*l.* a year;

(2) Being lessee or assignee for the unexpired residue of any term originally created for a period of not less than five years, or occupier of property, in one and the same province rated at not less than 15*l.* a year.

(3) Being joint owner, lessee, assignee, or occupier of property sufficient to give each the foregoing qualification;

(4) Being resident in Victoria and a graduate of any university in the British dominions, a matriculated student of Melbourne University, a qualified legal or medical practitioner, a minister of religion, a certificated school-master, or a naval or military officer.

All voters not being natural-born subjects of His Majesty, must have resided in the state for twelve months previous to the 1st of January or the 1st of July in any year, and shall have been naturalized at least three years previously.

The suffrage is possessed by both men and women, but no person is entitled to more than one vote in the same province.

2. It is provided by section 56 of the Bill scheduled to the Imperial Act 18 and 19 Vict., c. 55, that all Bills for appropriating any part of the revenue of Victoria, and for imposing any rate, tax, duty, rent, return, or impost, shall originate in the Assembly, and may be rejected but not altered by the Legislative Council. By section 30 of the amending Victorian Act, No. 1864 of 1903, it is provided as follows:—

(1) A Bill shall not be taken to be a Bill for appropriating any part of the revenue of Victoria or for imposing any duty, rate, tax, rent, return, or impost, by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties, or for the demand, or payment, or appropriation of fees for licences, or fees for services under such Bill.

(2) The Council may once at each of the undermentioned stages, of a Bill which the Council cannot alter, return such Bills to the Assembly suggesting by message the omission or amendment of any items or provisions therein. And the Assembly may, if it thinks fit, make any of such omissions or amendments with or without modifications. Provided that the Council may not suggest any omission or amendment the effect of which will be to increase any proposed charge or burden on the people.

(3) The stages of a Bill at which the Council may return the Bill with a message as aforesaid shall be—

(*a*) The consideration of the Bill in committee;

(*b*) The consideration of the report of the committtee; and

(*c*) The consideration of the question that the Bill be read a third time."

3. The following provision is made for disagreements between the two Houses with regard to matters of finance or general legislation by section 31 of the Act, 1864, of 1903:—

"(1) If the Assembly passes any Bill and the Council rejects or fails to pass it, or passes it with amendments to which the Assembly will not agree, and, if not later than six months before the date of the expiry of the Assembly by effluxion of time, the Assembly is dissolved by the Governor by a proclamation declaring such dissolution to be granted in consequence of the disagreement between the two Houses as to such Bill, and the Assembly again passes the Bill with or without any amendments which have been made, suggested, or agreed to by the Council, and the Council rejects or fails to pass it or passes it with amendments to which the Assembly will not agree, the Governor at any time, not being less than nine months nor more than twelve months after the said dissolution, may, notwithstanding anything contained in the Constitution Act, dissolve the Council and the Assembly simultaneously.

"(2) The Council shall be deemed to have failed to pass a Bill if the Bill is not returned to the Assembly within three months after its transmission to the Council and the session continue during such period.

"(3) Any Bill by which an alteration may be made in the constitution of the Council or Assembly or in Schedule D to the Constitution Act (other than such alterations as are referred to in section 61 of the said Act) shall not be within the operation of the foregoing provisions of this section.

"(4) In section 61 of the Constitution Act, after the words 'or increase' there shall be inserted the words 'or decrease.'"

QUEENSLAND.

The Legislative Council of Queensland consists of members unlimited in number —usually between 40 and 50—summoned by the Governor in His Majesty's name by an instrument under the Great Seal of the State.

No person can be summoned who is not of the full age of 21 years and a natural-born subject of His Majesty, or naturalized by an Act of the Imperial Parliament or by an Act of the Legislature of New South Wales before 1859, or by an Act of Queensland. Not less than four-fifths of the members so summoned to the Legislative Council shall consist of persons not holding any office of emolument under the Crown, except officers of His Majesty's sea and land forces on full or half pay or retired officers on pensions. No person who shall directly or indirectly himself, or by any person whatsoever in trust for him or for his use or benefit or on his account, undertake, execute, hold and enjoy in the whole or in part any contract or agreement for or on account of the public service shall be capable of being summoned to the Legislative Council. This does not extend to any contract or agreement made by an incorporated company or trading company consisting of more than twenty members.

Members of Council hold office for life, but a legislative councillor may resign his seat by letter to the Governor, and his seat is vacated if he (1) shall fail for ten successive sessions of the Council to give his attendance without the permission of His Majesty or the Governor; or (2) shall take any oath, or make any declaration or acknowledgment of allegiance, obedience, or adherence to any foreign prince or Power, or shall do, concur in, or adopt any act whereby he may become a subject or citizen of any foreign State or Power, or whereby he may become entitled to the rights, privileges, or immunities or a subject or citizen of any foreign State or Power; or (3) shall become bankrupt or take the benefit of any law relating to insolvent debtors; or (4) become a public contractor or defaulter; or (5) be attainted of treason or convicted of felony or of any infamous crime.

"2. It is provided by section 2 of the Constitution Act, 1867, that all Bills for appropriating any part of the public revenue or for imposing any new rate, tax, or impost shall originate in the Legislative Assembly." The exact force of this clause has formed the subject of a report of the Privy Council on reference from the two Houses in 1886."[1]

3. By an Act, No. 16 of 1908, provision is made for the submission of certain Bills to the electors in the case of differences between the two Houses:—

"3.—(1) For the purposes of this Act a Bill shall be deemed to have been rejected a first time whenever such Bill has, during a session of Parliament, not less than one month before the close of the session been passed by the Legislative Assembly and transmitted to the Legislative Council for its concurrence therein, and the Legislative Council before the close of the session has either—

[1] See (C. 4794).

"(*a*) Rejected or failed to pass such Bill; or

(*b*) Passed such Bill with any amendment or amendments in which the Legislative Assembly does not concur;

and by reason thereof the Bill has been lost.

"(2) For the purposes of this Act such Bill shall be deemed to have been rejected a second time when the Legislative Assembly in the next session of Parliament has, after an interval of not less than three months from the first rejection of the Bill as defined by the last preceding subsection, again passed such Bill (or a Bill substantially the same) and transmitted it to the Legislative Council for its concurrence therein, not less than one week before the close of the session, and the Legislative Council before the close of the session has either—

"(*c*) Rejected or failed to pass such Bill; or

"(*d*) Passed such Bill with any amendment or amendments in which the Legislative Assembly does not concur;

and by reason thereof the Bill has again been lost.

"4.—(1) Whenever a Bill has been twice rejected by the Legislative Council, the Governor in Council may, by proclamation published in the *Gazette* after the close of the session in which the Bill was rejected a second time, direct that the Bill so rejected shall be submitted by referendum to the electors; and a referendum poll shall accordingly be taken thereon under this Act at the time appointed in that behalf. The publication in the *Gazette* of such proclamation shall be conclusive evidence that the Bill as last rejected is the same Bill or substantially the same Bill as the Bill rejected in the session last but one preceding, and has been twice rejected by the Legislative Council.

"2. When a Bill is so directed to be submitted to a referendum, a copy of the Bill, in the form in which it was finally agreed to by the Legislative Assembly, certified as correct by the Speaker of the Legislative Assembly, shall, within twenty-one days after the issue of the said proclamation, be transmitted by the Clerk of the Legislative Assembly to the Home Secretary. Forthwith upon receipt of such copy the Home Secretary shall cause the same to be published in the *Gazette*, together with such amendments as have been made by the Legislative Council and which the Legislative Council may by resolution request to be annexed thereto.

"5. The persons entitled to vote at the taking of the referendum poll shall be the electors and no other persons.

"6.—(1) The Governor in Council may appoint, by commission under his hand and seal, a fit person to be the returning officer for taking the referendum poll under this Act.

"In case of sickness or other cause preventing the returning officer from acting, the Governor in Council may in like manner appoint some other person to act as returning officer in his stead. Notification of the appointment of the returning officer shall be published in the *Gazette*.

"(2) The returning officer, in addition to the powers and duties vested in and imposed upon him by this Act, shall have such of the powers and shall perform such of the duties of a returning officer appointed under the Elections Act as are necessary for carrying this Act into effect.

"(3) Every returning officer appointed under the Elections Act shall be an assistant returning officer for the purposes of this Act, and, in addition to the powers and duties vested in and imposed upon him by this Act, shall have such of the powers and shall perform such of the duties vested in and imposed upon

a returning officer under the Elections Act as are necessary for carrying this Act into effect.

"(4) The writ for the referendum poll shall be directed by the Governor in Council to the returning officer.

"A copy of the writ shall be published in the *Gazette*.

"7.—(1) The mode of exercising the right to vote at a referendum poll and of ascertaining such right shall be the same as at elections of members of the Legislative Assembly.

"And generally (except as may otherwise be provided in this Act, or any regulation made thereunder) every enactment contained in the Elections Act regulating and making provision for the holding and conduct of elections, the proceedings before and at and subsequent to such elections, and all incidental matters shall, so far as applicable thereto, apply *mutātis mutandis* to the referendum poll to be taken under this Act: Provided that the provisions (if any) of the Elections Act for securing the absolute majority of votes shall not apply.

(2) Every act or omission which would be punishable by law, if the same had occurred in connection with the holding of an election, shall be held to constitute the like offence, cognizable in the like manner, and punishable by the like punishment, if the same occurs in connection with a referendum poll.

"8. Every assistant returning officer shall, in manner provided by the Elections Act, ascertain the number of votes respectively recorded at the referendum poll in favour of and in opposition to the Bill at the various polling places within the electoral district for which he is the returning officer, for which purpose the presiding officer at each such polling place shall make a return (certified by him to be correct) to the assistant returning officer of the number of votes so given respectively at such polling place; and the assistant returning officer shall thereupon forthwith make out and furnish a return for such district (certified by him to be correct) to the returning officer appointed under this Act.

"Every return to be made under this section may be transmitted by telegraphic message or messages under "The Telegraphic Messages Act of 1872."

"9. The total number of votes respectively recorded at the referendum poll in favour of and in opposition to the Bill shall be endorsed upon the writ by the returning officer, who shall forthwith return the writ so endorsed to the Governor.

"The result of the referendum poll so endorsed shall be published by the Home Secretary in the *Gazette* within twenty-eight days from the return of the writ.

"Such publication shall be conclusive evidence of the result of the referendum poll.

"10. If the referendum poll is decided in favour of the Bill, the Bill shall be presented to the Governor for His Majesty's assent, and upon receiving such assent the Bill shall become an Act of Parliament in the same manner as if it had been passed by both Houses of Parliament, and notwithstanding any law to the contrary."

SOUTH AUSTRALIA.

The Legislative Council of South Australia consists of eighteen elected members. The State is divided into four Council Districts, of which one returns six members and the other three return four members each to the Legislative Council. The period of their service is regulated by sections 10, 11, and 12 of the South Australian Constitution Amendment Act, No. 959, 1908, which are as follows:—

"10. Subject to the provisions hereinafter contained as to the dissolution of the Legislative Council, every member of the said Council, except a member elected to fill a casual vacancy, shall occupy his seat for the term of six years at least, calculated as from the first day of March of the year in which he was last elected, and for such further period as is provided for in the next succeeding section. Provided nevertheless, if the seat of any member of the Legislative Council becomes vacant by death, resignation, or otherwise before the expiration of his term of service, and a member is returned from the electoral district in which the vacancy occurred, he shall hold office only for the unexpired term of the member whose seat has been vacated as aforesaid, and shall, for the purpose of retirement, be deemed to have been elected at the time when such last-mentioned member was or was deemed to be elected: Provided also that where two or more members are so returned at the same time to fill vacated seats of unequal terms, such terms shall be deemed to be held by the said members according to their position on the poll at their election, and that he who receives the greatest number of votes shall hold the seat which has the longest term to run, and in the event of a tie the matter shall be determined by lot.

"11. Whenever the House of Assembly is dissolved by the Governor, or expires by effluxion of time, so many members of the Legislative Council, not exceeding three for the Central District and two for each of the other districts, as have completed the minimum term of service provided by section 10 shall retire and vacate their seats, and, subject to section 21, an election to supply the vacancies so created shall take place on the day of the next general election of the House of Assembly.

"12. The periodical retirement of members of the Legislative Council under the provisions of the last preceding section shall be determined as follows:—

"(i) The members retiring in each Council District shall be those who have represented such district for the longest time, calculated from the date of their last election;

"(ii) If two or more members have represented the same Council District for an equal time, calculated as aforesaid, the order of retirement as between them shall be determined by their position on the poll at their election, and he or they who had the least number of votes shall retire first. If their position is equal in this respect, or if no poll was taken, the order of retirement between them shall be determined by lot;

"(iii) The Legislative Council shall keep a roll of its members, containing all particulars necessary for the application of the foregoing rules as to their periodical retirement."

A Legislative Councillor must be a man of the full age of 30 years, and a natural-born or a naturalized subject of His Majesty, who has resided within the State for the full period of three years. No person can be elected a member if he owes allegiance to a foreign Power, is a Government contractor, is insane, or has been attainted of treason or convicted of felony or an infamous crime, is an uncertified bankrupt, or is a member of the Federal Parliament.

A seat may be resigned, and the seat is vacated by absence without leave for one month, by bankruptcy, or conviction for treason or felony, and by lunacy.

The franchise for elections to the Legislative Council is possessed by adult British subjects of either sex who are—

(a) Owners of freehold of the clear value of 50*l.*

(b) Owners of leasehold of the clear annual value of 20*l.* with at least three years to run or containing a right to purchase;

(c) Occupiers of a dwelling-house of a clear annual value of 17*l.*.....

(d) Registered proprietors of a Crown lease on which there are improvements to the value of at least 50*l.* Postmasters and postmistresses, police officers in charge of a police station, railway stationmasters, head school teachers who reside in official premises, and officiating ministers of religion are also qualified.

Voters must have been residents for six months prior to being placed on the rolls of the Council.

2. The only provision limiting the power of the Legislative Council with regard to legislation is that contained in the first section of the South Australian Constitution Act, No. 2 of 1855-56, which provides that all Bills for "appropriating any part of the revenue of the said province, or for imposing, altering, or repealing any rate, tax, duty, or impost, shall originate in the House of Assembly."

3. The following provision is made by Act No. 959 of 1908 for the settlement of differences between the two Houses:—

(1) Whenever any Bill for an Act has been passed by the House of Assembly during any session of Parliament, and the same Bill, or a similar Bill with substantially the same objects and having the same title, has been passed by the House of Assembly during the next ensuing Parliament, a general election of the House of Assembly having taken place between such two Parliaments, and the second and third readings of such Bill having been passed in the second instance by an absolute majority of the whole number of members of the said House of Assembly, and both such Bills have been rejected by or fail to become law in consequence of any amendments made therein by the Legislative Council, it shall be lawful for but not obligatory upon the Governor of the said State, within six months after the last rejection or failure, by proclamation to be published in the *Government Gazette,* to dissolve the Legislative Council and House of Assembly, and thereupon all the members of both Houses of Parliament shall vacate their seats, and members shall be elected to supply the vacancies so created; or for the Governor, within six months after such rejection or failure, to issue writs for the election of three additional members for the Central District and of two additional members for each of the other districts of the Legislative Council.

"(2) After the issue of such writs no vacancy, whether arising before or after the issue thereof, shall be filled, except as may be necessary to bring the representation of the district in which such vacancy occurs to its proper number as set forth in First Schedule hereto. Whenever there are more seats vacated by members returned for the same district than are to be filled, and such members' seats were of unequal tenure, the seats of those members the unexpired portions of whose terms are the shorter shall be first filled.

"(3) Upon every such dissolution of the Legislative Council the order of retirement, as between the members elected after such dissolution, shall be as provided in section 12 of this Act; and one half of such members shall retire after three years' service, calculated from the first day of March of the year of their election, or after such further period as is provided for in section 11."

WESTERN AUSTRALIA.

The Legislative Council of Western Australia consists of 30 elected members, who are elected for six years. They are returned for 10 electorates, each returning three members. At the expiration of two years from the date of election, and every two years thereafter, the senior member for the time being retires. Seniority is determined—

(*a*) By date of election;

(*b*) If two or more members are elected on the same day, then the senior is the one who polled the greatest number of votes;

(*c*) If the election be uncontested or in the case of an equality of votes, then the seniority is determined by the alphabetical precedence of surnames and, if necessary, of Christian names.

A legislative councillor must be a male natural-born or naturalized British ésubject of the age of 30 years or upwards, and—

(*a*) In the case of a natural-born subject, resident in the State for two years; and

(*b*) In the case of naturalized subjects, if naturalized for five years previous to the election and resident in the State during that period. He must not be a Judge of the Supreme Court, Sheriff of Western Australia, a clergyman, an undischarged bankrupt, under attainder of treason or conviction of felony in any part of His Majesty's dominions, or directly or indirectly concerned in any public contracts, save as a member of an incorporated trading society.

Seats in the Legislative Council are vacated in the following instances:—

"If any member of the Legislative Council after his election—

(1) Ceases to be qualified or becomes disqualified as aforesaid; or

(2) Takes the benefit, whether by assignment, composition, or otherwise, of any law relating to bankrupt or insolvent debtors; or

(3) Becomes of unsound mind; or

(4) Takes any oath or makes any declaration or acknowledgment of allegiance, obedience, or adherence to any foreign prince or Power, or does, concurs in, or adopts any act whereby he may become a subject or citizen of any foreign State or Power, or whereby he may become entitled to the rights, privileges, or immunities of a subject or citizen of any foreign State or Power; or

(5) Fails to give his attendance in the Legislative Council for two consecutive months of any session thereof without the permission of the Council entered upon its journals; or

(6) Accepts any pension during pleasure or for term of years other than an allowance under section 71 of "The Constitution Act, 1889," or any office of profit from the Crown, other than that of an officer of His Majesty's sea or land forces on full, half, or retired pay;

his seat shall thereupon become vacant: Provided that members accepting offices liable to be vacated on political grounds shall be eligible for re-election."

The franchise is held by adult British subjects of either sex who have resided in the State for six months, and who either—

(*a*) Own a freehold estate to the value of 100*l.*;

(*b*) Occupy a house or own leasehold property rated at 25*l.*;

(*c*) Hold Crown leases or licenses to the value of not less than 10*l.* per annum; or

(*d*) Are on the electoral list of any municipality or road board district in respect of property of the annual rateable value of 25*l.*

2. It is provided by the Constitution Act of 1890 that all Bills for appropriating any part of the consolidated revenue fund or for imposing, altering, or repealing any rate, tax, duty, or impost shall originate in the Legislative Assembly. In the amending Act of 1899 the following provision is made:—

> "In the case of a proposed Bill, which, according to law, must have originated in the Legislative Assembly, the Legislative Council may at any stage return it to the Legislative Assembly with a message requesting the omission or amendment of any items or provisions therein; and the Legislative Assembly may, if it thinks fit, make such omissions or amendments, or any of them, with or without modifications."

3. There is no legal provision for the case of differences between the two Houses, whether in matters of finance or of general legislation.

TASMANIA.

The Legislative Council of Tasmania consists of 18 members returned from 15 districts, Hobart returning 3, Launceston 2, and the remaining 13 districts sending 1 member each. Each member of the Council holds his seat for six years from the date of his election. Three members retire the first Monday in May every year, except in 1905, and every sixth year thereafter, when four retire.

Members of Council must be male natural-born or five years naturalized British subjects of the age of 30 years or upwards, and must have resided continuously for five years in Tasmania or for at least two years immediately preceding the election. No person is qualified to be a member who has a pension payable during pleasure or holds any office of profit under the Government, except that of a Minister, or who is a Government contractor, unless as a member of an incorporated company of more than six persons, or who owes allegiance to any foreign Power, holds the office of Judge of the Supreme Court, is insane, attainted or convicted of treason, felony, or other infamous offence, or is a member of the Commonwealth Parliament. The following are not deemed offices of profit or emolument: Wardens of Marine Boards, returning officers under the Electoral Act, officers of the Defence Forces of the Commonwealth whose services are entirely employed by the Commonwealth Government, and members of the Board of Land Purchase Commissioners.

A member may resign his seat, and his seat is vacated if he becomes a subject of a foreign Power, is bankrupt or insolvent, becomes a public defaulter, is attainted of treason, or convicted of felony, or of any infamous crime, becomes insane, is absent without leave for an entire session, accepts any office or profit from the Government except a Ministerial office or pension, or contracts for the public service unless a member of an incorporated company of more than six persons.

The electors of the Legislative Council are qualified by being adult subjects, natural born or naturalized of either sex of 21 years of age and upwards, having freehold estate in the electoral district of £10 a year or being the occupier of property of the value of £30 a year, or being a graduate of any university in the British Dominions, a qualified legal or medical practitioner, an officiating minister of religion,

an officer or retired officer of His Majesty's Army or Navy on actual service, or a retired officer of the Volunteer Force of Tasmania.

2. It is provided by section 33 of the Constitution Act, 1855, that all Bills for appropriating any part of the revenue or for imposing any tax, rate, duty, or impost shall originate in the House of Assembly.

3. There is no legal provision for removing differences which may arise between the two Houses of Parliament in Tasmania, whether with regard to financial matters or to general legislation.

NEW ZEALAND.

Under the Legislature Act, 1908, the Legislative Council of New Zealand consists of members unlimited in number summoned for life in the case of persons summoned before 1891, or for seven years, in other cases, by the Governor from time to time in His Majesty's name by instrument under the Public Seal of New Zealand.

No person shall be summoned or shall hold a seat in the Council who is not a male—

(*a*) of the full age of 21 years and either a natural-born subject of His Majesty or a subject of His Majesty naturalized by or under any Act of the Imperial Parliament, or by an Act of the General Assembly of New Zealand, or

"(*b*) Who at any time theretofore has been bankrupt and has not received his discharge, or who has been attainted or convicted of any treason, any crime formerly known as felony, or any infamous offence within any part of His Majesty's Dominions, or as a public defaulter in New Zealand, unless he received a free pardon, or has undergone the sentence or punishment to which he was adjudged in respect thereof, or

"(*c*) Is a member of Parliament, or

"(*d*) Who is a contractor, or

"(*e*) Who is, or within the next preceding six months was, a Civil Servant. This term does not include the persons who are members of the Executive Council, provided that such members do not exceed ten in all, two of which members must be Maories or half-castes), nor the Speaker or Chairman of Committees of the Council, nor officers of His Majesty's Army or Navy, or Militia or Volunteers, except officers of the Militia and Volunteers receiving annual or permanent salaries, nor any persons as members only of any Senate or Council or any University, nor members of a Commission issued by the Governor or Governor in Council.

"'Contractor' is a person who either by himself or directly or indirectly by or with others, but not as a member of a registered or incorporated company or any incorporated body, is interested in the execution or enjoyment of any contract or agreement entered into with His Majesty or with any officer or department of the Government of New Zealand, or with any person for or on account of the public service of New Zealand under which any public money above the sum of £50 is payable directly or indirectly to such person in any one financial year, but does not extend to persons on whom the completion of any contract or agreement devolves by marriage, or as devisee, legatee, executor or administrator until twelve months after he has been in possession of the same; any sale, purchase, or agreement for taking of land or of or for any interest, estate, or easement therein under any law or statute empowering the King or the Governor or any person on his behalf to take, purchase or acquire any lands, or any estate, interest, or easement therein for any public works or for any other public purposes whatsoever; contracts

for the loan of money or securities given for the payment of money only; contracts for advertising by which a sum of over £50 is payable, if the contract is entered into after public tender.

" A 'public defaulter' means a person convicted of wrongfully spending, taking, or using any moneys the property of the Crown or of any local authority or of any corporation represented by a local authority."

Members of the Council appointed since the passing of the Act of 1891 hold office for seven years only, to be reckoned from the date of the instrument of appointment, but they may be reappointed. In the case of any member of the Council, his seat shall *ipso facto* be vacated—

"(*a*) If he takes any oath or makes any declaration or acknowledgment of allegiance, obedience, or adherence, to any foreign Prince or Power; or

"(*b*) If he does, or concurs in, or adopts any act whereby he may become a subject or citizen of any foreign State or Power, or entitled to the rights, privileges or immunities of a subject of any foreign State or Power; or

"(*c*) If he is bankrupt, or compounds with his creditors under any Act for the time being in force; or

"(*d*) If he is a public defaulter, or is convicted of any crime punishable by death or by imprisonment with hard labour for a term of three years or upwards; or

" (*e*) If he resigns his seat by writing under his hand addressed to and accepted by the Governor; or

"(*f*) If for more than one whole session of the General Assembly he fails, without permission of the Governor notified to the Council, to give his attendance in the Council."

2. It is provided by section 54 of the Imperial Act (15 and 16 Vict., c. 72) that it shall not be lawful for the House of Representatives or the Legislative Council to pass, or for the Governor to assent to, any Bill appropriating to the public service any sum of money from or out of His Majesty's revenue within New Zealand unless the Governor, on His Majesty's behalf, shall first have recommended the House of Representatives to make provision for the specific public purpose towards which such money is to be appropriated. The provisions of this section render it necessary for any Appropriation Bill to be initiated in the Lower House.

3. There is no legal provision for a settlement of differences between the two Houses. The question of the relations between the two Houses with regard to Money Bills was submitted in 1872 to the law officers of the Crown, who gave an opinion on the question on the 18th of June, 1872, to the effect that the Legislative Council was not entitled to amend a Money Bill which the House of Lords in England would not have amended. (See Appendix to Journals of Legislative Council of New Zealand for 1872, No. 3.)

The question of the relations of the two Houses in general legislation was discussed in 1892, and papers were laid before Parliament. (See House of Commons Paper 198, 1893-4.)

CAPE OF GOOD HOPE.

The Legislative Council of the Cape of Good Hope consists of twenty-six elected members, presided over *ex officio* by the Chief Justice. The members are elected four for the Western, the South-eastern and the Eastern provinces, three for the North-western, South-western, Midland and North-eastern provinces, and one each for British Bechuanaland and Griqualand West. They keep their seats for seven years unless the Council is sooner dissolved.

No person is qualified to be elected a member of the Council who is incapacitated to be registered as a voter, is under the age of 30 years, is not the owner for his own use and benefit of immovable property situate within the colony of the value of 2,000*l.* over and above all special conventional mortgages affecting the same or who is not, being the owner of such property to such value but under mortgage, at the same time possessed of property movable and immovable in the Colony to the value of not less than 4,000*l.* over and above his just debts. A married man for the purposes of this provision is deemed and taken to own or occupy the whole of the property belonging to his wife. But no person holding an office of profit under the Crown within the colony, and no uncertificated insolvent, and no alien who shall be registered as a voter by virtue merely of having obtained a deed of burghership shall be eligible to be elected a member of the Council. From this proviso are excepted the offices of Colonial Secretary, Treasurer, Attorney-General, Commissioner of Public Works, and Secretary for Agriculture, and of Prime Minister even if not holding one of these offices.

A member of the Legislative Council can resign his seat by writing under his hand or by telegraph message addressed to the president of the Council, and his seat is vacated if for one whole session of the Parliament he fails to give his attendance in the Council without the permission of the Council, or shall take any oath or make any declaration or acknowledgment of allegiance, obedience, or adherence to any foreign Prince or Power, or shall do, concur in, or adopt any act whereby he may become a subject or citizen of any foreign State or Power, or if his estate shall be sequestrated as insolvent. A seat is also vacated if the member shall accept or be the holder of any office of profit under the Crown save and except the office of Colonial Secretary and other offices specified above.

The qualifications for electors are the age of 21 years or upwards, possession of property worth 75*l.*, or receipt of salary or wages of not less than 50*l.* a year, but no person can be newly registered as a voter since the Ballot and Franchise Act of 1892 unless he can sign his name and write his address and occupation. Voters for the Legislative Council have as many votes as there are seats to be filled, and they may give two or three votes to one candidate or divide them between two or more candidates.

2. The following provision is made by section 88 of the Constitution Ordinance approved by Order in Council of the 11th March, 1853:—

> "And be it enacted, that in regard to all Bills relative to the granting of supplies to Her Majesty, or the imposition of any impost, rate, or pecuniary burden upon the inhabitants, and which Bills shall be of such a nature that if Bills similar to them should be proposed to the Imperial Parliament of Great Britain and Ireland, such Bills would, by the law and custom of Parliament, be required to originate in the House of Commons, that all such Bills shall originate in, or be by the Governor of the Cape of Good Hope introduced into, the House of Assembly of the said Colony: Provided that the Legislative Council of the said Colony and the Governor thereof shall, respectively, have full power and authority to make, in all such Bills, such amendments as the said Council and the said Governor shall, respectively, regard as needful or expedient; and the said Council and the said Governor may, respectively, return such Bills, so amended, to the House of Assembly or the Legislative Council."

3. No special provision is made by law for the settlement of differences between the Legislative Council and the House of Assembly, but by section 74 of the Constitution Ordinance it is provided that the Governor may whenever he shall see fit so to do, either by speech or proclamation dissolve the Legislative Council and the House of Assembly, or dissolve the House of Assembly without dissolving the Legislative Council.

NATAL.

The Legislative Council of Natal consists of thirteen members summoned by the Governor in Council in the name of His Majesty by instrument under the Public Seal of the Colony.

Each person so summoned holds his seat for ten years from the date of his summons, but five of the members of the Legislative Council first summoned vacate their seats at the end of five years, the particular members who are so to vacate their seats being decided by lot within the first week of the first session of the Legislative Council. The members are summoned from the following districts of the colony: Five from within the counties of Durban, Victoria, Alexandria, and Alfred; three from within the counties of Pietersmaritzburg and Umvoti, and three from within the counties of Weenen and Klip River, one from the Province of Zululand, and one from the new territory (Utrecht); but not more than two members may be chosen within any one county.

A legislative councillor must be of the age of 30 years or upwards, must not be subject to any disqualification which would vacate his seat if it occurred after his appointment, have resided in the colony for ten years, and be the registered proprietor of immovable property within the Colony of the value of 500*l.* in net value, after deduction of the amount of all registered mortgages.

A seat in the Legislative Council is vacated if any member of the Council shall fail for a whole ordinary annual session to give his attendance in the House, or shall cease to hold his qualification, or shall take any oath or make any declaration or acknowledgment of allegiance, obedience, or adherence to any foreign State or Power, or shall do, concur in, or adopt any act whereby he may become the subject or citizen of any such State or Power, or shall become an insolvent, or take advantage of any Act for the relief of insolvent debtors, or shall become a public defaulter, or shall be attainted of treason, or be sentenced to imprisonment for any infamous crime, or shall become of unsound mind, or shall accept any office of profit under the Crown other than a political office, or that of an officer of His Majesty's sea or land forces on full, retired, or half pay. The disqualification does not apply in the case of persons in receipt of pensions from the Colonial Government, or who were granted pensions under the Constitution Act of 1893 on their retirement on political grounds. A seat is also vacated if any member of the Legislative Council shall for the period of one month remain a party to any contract with the Government; but this does not apply to a purchaser of land at public auction from the Government, or to any lessee of Government land. A member of the Council may also resign his seat by writing under his hand addressed to the Governor. A member is eligible for re-appointment by the Governor.

2. It is provided by section 48 of the Constitution Act of 1893 that all Bills for appropriating any part of the consolidated revenue fund, or for imposing, altering, or repealing any rate, tax, duty, or impost, shall originate in the Legislative Assembly. By section 49 it is provided that "The Legislative Council may either accept or reject any Money Bill passed by the Legislative Assembly, but may not alter it."

3. There is no express provision for the settlement of differences between the two Houses of Parliament, whether with regard to finance or to general legislation.

TRANSVAAL.

By section 2 of the Letters Patent of the 6th of December 1906 it is provided that the Legislative Council shall consist of fifteen members, who shall be summoned in the case of the first Council by the Governor, and if any vacancy shall occur in the first or in any subsequent Council a member shall be appointed to fill the said vacancy

by the Governor in Council until the completion of the period for which the person in whose place he is appointed would have held office. Members of the Council are appointed in the name of His Majesty by instrument under the Public Seal of the Colony.

A member of the Council must be of the age of 30 years or upwards, have resided in the colony for three years, and be qualified to be registered as a voter for some electoral division of the colony. Members of the first Council hold office for five years, but at any time after four years of the date of the first meeting of the Council the Legislature may pass a law providing for the election of members of the Legislative Council, whereupon, subject to the provisions of any such law, the then existing Legislative Council shall be dissolved and all members of the Legislative Council shall thereafter be elected as prescribed in the law.

Any member of the Legislative Council may resign his seat by writing under his hand addressed to the Governor, and a seat is vacated if any member of the Legislative Council shall—

> "(1) Fail for a whole ordinary annual session to give his attendance in the Legislative Council; or
>
> "(2) Shall take any oath, or make any declaration or acknowledgment of allegiance, obedience, or adherence to any foreign State or Power; or
>
> "(3) Shall do, concur in, or adopt any act whereby he may become the subject or citizen of any such State or Power; or
>
> "(4) Shall become an insolvent or take advantage of any law for the relief of insolvent debtors; or
>
> "(5) Shall be a public defaulter, or be attainted of treason, or be sentenced to imprisonment for any infamous crime; or
>
> "(6) Shall become of unsound mind; or
>
> "(7) Shall accept any office of profit under the Crown other than that of a Minister or that of an officer of our naval and military forces on retired or half-pay."

Provided that a person in receipt of pension from the Crown shall not be deemed to hold an office of profit under the Crown within the meaning of this section.

2. It is provided by sections 55 and 56 of the Letters Patent that all Bills for appropriating any part of the consolidated revenue fund or for imposing, altering, or repealing any rate, tax, duty, or impost, shall originate in the Legislative Assembly, and that "The Legislative Council may either accept or reject any Money Bill passed by the Legislative Assembly, but may not alter it."

3. The following provision is made by section 37 for the case of disagreement between the Legislative Council and the Legislative Assembly:—

> "(1) If the Legislative Assembly passes any proposed law and the Legislative Council rejects or fails to pass it, or passes it with amendments to which the Legislative Assembly will not agree, and if the Legislative Assembly, in the next session, again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the Legislative Council, and the Legislative Council rejects, or fails to pass it, or passes it with amendments to which the Legislative Assembly will not agree, the Governor may during that session convene a joint sitting of the members of the Legislative Council and Legislative Assembly in the manner hereinafter provided, or may dissolve the Legislative Assembly, and may simultaneously dissolve both the Legislative Council and Legislative Assembly if the Legislative Council shall then be an elected Council. But such dissolution shall not take place within six months before the date of the expiry of the Legislative Assembly by effluxion of time.

"(2) If after such dissolution the Legislative Assembly again passes the proposed law, with or without any amendments which have been made, suggested, or agreed to by the Legislative Council, and the Legislative Council rejects or fails to pass it, or passes it with amendments to which the Legislative Assembly will not agree, the Governor may convene a joint sitting of the members of the Legislative Council and of the Legislative Assembly, at which the Speaker of the Legislative Assembly shall preside.

"(3) The members present at any joint sitting convened under either of the preceding subsections, may deliberate and shall vote together upon the proposed law, as last proposed by the Legislative Assembly, and upon amendments, if any, which have been made therein by the one House of the Legislature and not agreed to by the other, and any such amendments which are affirmed by an absolute majority of the total number of the members of the Legislative Council and the Legislative Assembly shall be taken to have been carried, and if the proposed law, with the amendments, if any, so carried, is affirmed by an absolute majority of the total number of the members of the Legislative Council and Legislative Assembly, it shall be taken to have been duly passed by the Legislature."

ORANGE RIVER COLONY.

1. The Legislative Council of the Orange River Colony as constituted by the Letters Patent of the 5th of June, 1907, consists of eleven members, to be summoned by the Governor by an Instrument under the Public Seal of the Colony in the name of His Majesty.

It is provided by the Letters Patent that three of the members of the Legislative Council, as first constituted, should vacate their seats at the expiration of the third year from the date of the issue of the first summons of any members thereto; four at the end of the fifth year and four at the end of the seventh year; the members who retire at the end of the third, fifth, and seventh years to be decided by lot, and fresh members to be appointed in their place by the Governor in Council; such members to hold office for five years from the date of their summons. But members can be reappointed by the Governor in Council.

Power was given in the Letters Patent for the Legislature, at any time after four years from the date of the first Order of the Council, to pass a law providing for the election of members of the Legislative Council, and thereupon, subject to the provisions of such law, the then existing Legislative Council would be dissolved and the new Council would be elected on such conditions as were laid down in the law.

No person can be summoned unless he is of the age of 30 years or upwards, has resided in the colony for three years, and is qualified to be registered as a voter for some electoral division of the colony.

Any member of the Legislative Council may resign his seat by writing under his hand addressed to the Governor.

A member of the Legislative Council vacates his seat if he—

"(1) Shall fail for a whole ordinary annual session to give his attendance in the Legislative Council; or

"(2) Shall take any oath, or make any declaration or acknowledgment of allegiance, obedience, or adherence to any foreign State or Power; or

"(3) Shall do, concur in, or adopt any act whereby he may become the subject or citizen of any such State or Power; or

"(4) Shall become an insolvent or take advantage of any law for the relief of insolvent debtors; or

"(5) Shall be a public defaulter, or be attainted of treason, or be sentenced to imprisonment for any infamous crime; or

"(6) Shall become of unsound mind; or

"(7) Shall accept any office of profit under the Crown other than that of a Minister, that of a member of the Inter-Colonial Council, of the Liquor Licensing Court, or of any Commission appointed by the Governer in Council, or under any law to make any public inquiry, or that of an officer of Our naval and military forces on retired or half-pay,"

Provided that a person in receipt of pension from the Crown shall not be deemed to hold an office of profit under the Crown within the meaning of this section.

2. By section 56 of the Letters Patent, all Bills for appropriating any part of the consolidated revenue fund, or for imposing, altering or repealing any rate, tax, duty or impost were to originate in the Legislative Assembly. And by section 57, "The Legislative Council may either accept or reject any Money Bill passed by the Legislative Assembly, but may not alter it."

3. The following provision is made by section 39 for the case of disagreements between the Legislative Council and the Legislative Assembly:—

"(1) If the Legislative Assembly passes any proposed law and the Legislative Council rejects or fails to pass it, or passes it with amendments to which the Legislative Assembly will not agree, and if the Legislative Assembly, in the next session, again passes the proposed law with or without any amendments which have been made, suggested, or agreed to by the Legislative Council, and the Legislative Council reject, or fails to pass it, or passes it with amendments to which the Legislative Assembly will not agree, the Governor may during that session convene a joint sitting of the members of the Legislative Council and Legislative Assembly, and may simultaneously provided, or may dissolve the Legislative Assembly, and may simultaneously dissolve both the Legislative Council and Legislative Assembly if the Legislative Council shall then be an elected Council. But such dissolution shall not take place within six months before the date of the expiry of the Legislative Assembly by effluxion of time.

"(2) If after such dissolution the Legislative Assembly again passes the proposed law, with or without any amendments, which have been made, suggested, or agreed to by the Legislative Council, and the Legislative Council rejects or fails to pass it, or passes it with amendments to which the Legislative Assembly will not agree, the Governor may convene a joint sitting of the Members of the Legislative Council and of the Legislative Assembly, at which the Speaker of the Legislative Assembly shall preside.

"(3) The members present at any joint sitting convened under either of the preceding subsections may deliberate and shall vote together upon the proposed law, as last proposed by the Legislative Assembly, and upon amendments, if any, which have been made therein by the one House of the Legislature and not agreed to by the other, and any such amendments which are affirmed by an absolute majority of the total number of the Members of the Legislative Council and Legislative Assembly shall be taken to have been carried, and if the proposed law, with the amendments, if any, so carried, is affirmed by an absolute majority of the total number of the members of the Legislative Council and Legislative Assembly, it shall be taken to have been duly passed by the Legislature."

UNION OF SOUTH AFRICA.

The Senate of South Africa under the South Africa Act, 1909, which will take effect from the 31st of May, 1910, is constituted as follows:—

24. For ten years after the establishment of the Union, the constitution of the Senate shall, in respect of the original provinces, be as follows:—

"(1) Eight senators shall be nominated by the Governor General in Council and for each original province eight senators shall be elected in the manner hereinafter provided;

"(2) The senators to be nominated by the Governor General in Council shall hold their seats for ten years. One-half of their number shall be selected on the ground mainly of their thorough acquaintance, by reason of their official experience or otherwise, with the reasonable wants and wishes of the coloured races in South Africa. If the seat of a senator so nominated shall become vacant, the Governor-General in Council shall nominate another person to be a senator, who shall hold his seat for ten years;

"(3) After the passing of this Act, and before the day appointed for the establishment of the Union, the Governor of each of the Colonies shall summon a special sitting of both Houses of the Legislature, and the two Houses sitting together as one body, and presided over by the Speaker of the Legislative Assembly, shall elect eight persons to be senators for the province. Such senators shall hold their seats for ten years. If the seat of a senator so elected shall become vacant, the provincial council of the province for which such senator has been selected shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat.

25. Parliament may provide for the manner in which the Senate shall be constituted after the expiration of ten years, and unless and until such provision shall have been made:—

"(1) The provisions of the last preceding section with regard to nominated senators shall continue to have effect:

"(2) Eight senators for each province shall be elected by the members of the provincial council of such province together with the members of the House of Assembly elected for such province. Such senators shall hold their seats for ten years unless the Senate be sooner dissolved. If the seat of an elected senator shall become vacant, the members of the provincial council of the province, together with the members of the House of Assembly elected for such province, shall choose a person to hold the seat until the completion of the period for which the person in whose stead he is elected would have held his seat. The Governor-General in Council shall make regulations for the joint election of senators prescribed in this section.

26. The qualifications of a senator shall be as follows:—

He must—

(*a*) Be not less than 30 years of age;

(*b*) Be qualified to be registered as a voter for the election of members of the House of Assembly in one of the provinces;

(*c*) Have resided for five years within the limits of the Union as existing at the time when he is elected or nominated, as the case may be;

(*d*) Be a British subject of European descent;

(*e*) In the case of an elected senator, be the registered owner of immovable property within the Union of the value of not less than £500 over and above any special mortgages thereon.

"For the purposes of this section, residence in, and property situated within, a colony before its incorporation in the Union shall be treated as residence in and property situated within the Union.

"No person shall be capable of being chosen or of sitting as a senator who—

"(*a*) Has been at any time convicted of any crime or offence for which he shall have been sentenced to imprisonment without the option of a fine for a term of not less than twelve months, unless he shall have received a grant of amnesty or a free pardon, or unless such imprisonment shall have expired at least five years before the date of his election; or

"(*b*) Is an unrehabilitated insolvent; or

"(*c*) Is of unsound mind, and has been so declared by a competent court; or

"(*d*) Holds any office of profit under the Crown within the Union: Provided that the following persons shall not be deemed to hold an office of profit under the Crown for the purposes of this subsection:

"(1) A Minister of State for the Union;

"(2) A person in receipt of a pension from the Crown;

"(3) An officer or member of His Majesty's naval or military forces on retired or half pay, or an officer or member of the naval or military forces of the Union whose services are not wholly employed by the Union.

"If a senator—

"(*a*) Becomes subject to any of the disabilities mentioned in the last preceding section; or

"(*b*) Ceases to be qualified as required by law; or

"(*c*) Fails for a whole ordinary session to attend without the special leave of the Senate,

"his seat thereupon becomes vacant.

2. The provisions of the South Africa Act as to the powers of the Senate are as follows:—

"60.—(1) Bills appropriating revenue or moneys or imposing taxation shall originate only in the House of Assembly. But a Bill shall not be taken to appropriate revenue or moneys or to impose taxation by reason only of its containing provisions for the imposition or appropriation of fines or other pecuniary penalties.

"(2) The Senate may not amend any Bills so far as they impose taxation or appropriate revenue or moneys for the services of the Government.

"(3) The Senate may not amend any Bill so as to increase any proposed charges or burden on the people.

"61. Any Bill which appropriates revenue or moneys for the ordinary annual services of the Government shall deal only with such appropriation."

3. The following provision is made in section 63 of the South Africa Act for the cases of disagreement between the two Houses:—

"63. If the House of Assembly passes any Bill and the Senate rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree, and if the House of Assembly in the next session again passes

the Bill with or without any amendments which have been made or agreed to by the Senate and the Senate rejects or fails to pass it or passes it with amendments to which the House of Assembly will not agree, the Governor General may during that session convene a joint sitting of the members of the Senate and House of Assembly. The members present at any such joint sitting may deliberate and shall vote together upon the Bill as last proposed by the House of Assembly and upon amendments, if any, which have been made therein by one House of Parliament and not agreed to by the other; and any such amendments which are affirmed by a majority of the total number of members of the Senate and House of Assembly present at such sitting shall be taken to have been carried, and if the Bill with the amendments, if any, is affirmed by a majority of the members of the Senate and House of Assembly present at such sitting, it shall be taken to have been duly passed by both Houses of Parliament: Provided that, if the Senate shall reject or fail to pass any Bill dealing with the appropriation of revenue or moneys for the public service, such joint sitting may be convened during the same session in which the Senate so rejects or fails to pass such Bill."